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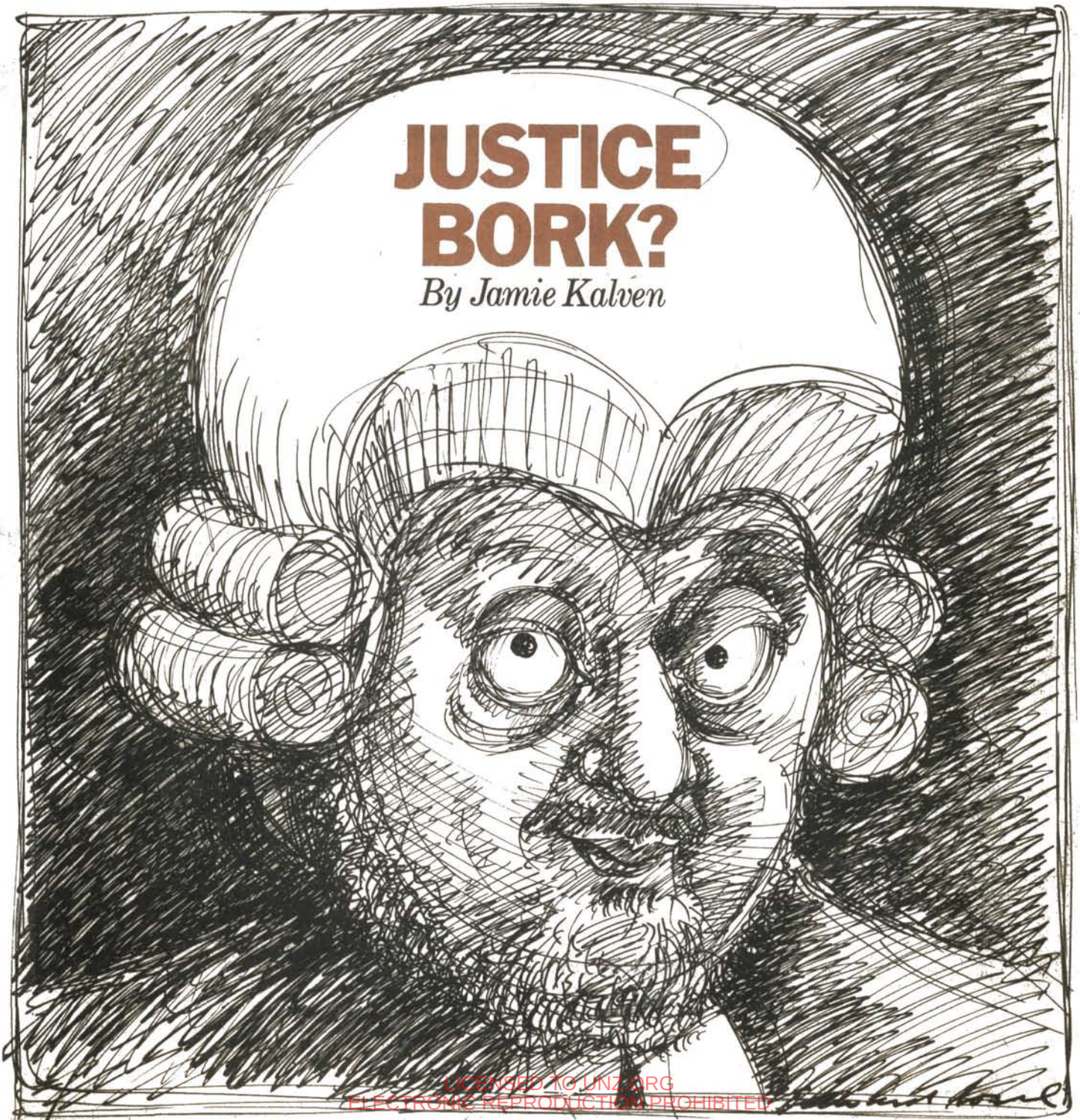

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LETTERS.

WAIT FOR THE EVIDENCE

Chicago

In "Reflections on the Rosenbergs" [*The Nation*, June 11], Arthur Kinoy writes that the "real failure" of the "peoples' movements—of the militant trade unionists, the liberals, the socialists, the Communists—of all of us" was the failure to respond to the indictments and arrests of the Rosenbergs "with a massive political and legal counter-offensive, or with any show of a mass opposition to the government's strategy."

I deny the logic of Kinoy's contention that the left should have responded in such a way. Should not the question of innocence or guilt of the charge of treasonous atomic espionage have influenced the response of the left? At the time of the arrests and indictments, leftists did not know the facts in the case, or whether the Rosenbergs had acted as charged.

The case was highly publicized, and the newspaper accounts recited evidence that substantiated the government prosecution.

After the trial, as a practicing lawyer involved in left-wing causes, I was asked to participate in legal efforts on behalf of the Rosenbergs. Before I could take the position that there had been a miscarriage of justice, I asked to see the transcripts of the trial, which I read from beginning to end. In my opinion there was sufficient evidence to sustain a finding of guilty. I did support the clemency campaign because the death sentence was not justified.

If the left is to undertake mass opposition to indictments before the evidence is in, as Kinoy urges, it will be impaled upon its emotional illogic the first time a defendant indicted for treason pleads guilty.

Robert J. Gorman

KINOY REPLIES

New York City

Robert J. Gorman's letter totally misses the point of my article (based on excerpts from my forthcoming book, *Rights on Trial: The Odyssey of a People's Lawyer*). As *The Nation*'s June 11 editorial "The Case That Will Not Die" put it, the trial of the Rosenbergs and Morton Sobell "became the centerpiece of an extensive campaign to destroy the American left." To suggest that at such a time progressive organizations and progressive people should hold back from defending those targeted by the power structure out of concern that all the "facts" relating to guilt or innocence will not be available until *after* the trial is not only absurd. It is a dangerous suggestion, particularly when we face once again, as we did in the 1950s, the conscious creation of an atmosphere of fear and hysteria in which the criminal court system as well as Congressional proceedings are gearing up to produce new frame-ups. To say that, when under government attack, the left and progressive people should quietly sit back and wait until the "guilt" or "innocence" of the targeted victims has been determined in the establishment's own courtrooms completely disregards the history of America's criminal justice system. More importantly, such a strategy would lead to the very thing the power structure wants most, the abandonment of the struggle against those frame-ups and the acceptance of the inevitable impact of those prosecutions: the creation of that devastating "chilling effect" upon all movements of protest and opposition.

According to Gorman, progressive Americans should have sat quietly by as the establishment moved against Tom Mooney, against Sacco and Vanzetti, against the Scottsboro defendants, against the Chicago Eight. As the history of the Rosenberg-Sobell case proved so dramatically after the brutal executions in June 1953, to suggest that left and progressive people should have waited until after "the evidence was in" is ridiculous. F.B.I. files released years after the executions have documented discussions between the trial judge, Irving Kaufman, and the U.S. attorneys, *before* the trial even started, about the appropriateness of death sentences.

Gorman's comment that he concluded on reading the full transcript of the Rosenberg-Sobell trial that there was "sufficient evidence to sustain a finding of guilty" is highly revealing. Not a single other progressive lawyer who examined those transcripts then came to that conclusion. Unlike Gorman, several distinguished members of the Chicago bar, like Prof. Malcolm P. Sharp of the University of Chicago, threw themselves into the desperate last round of appeals after reading the transcripts.

In an unfortunate way, Gorman's letter appears to be part of the effort to establish, thirty years after the executions, the "real guilt" of the Rosenbergs. Ronald Radosh and Joyce Milton attempt to do just that in their new book, *The Rosenberg File*, which is based on supposed revelations in recently disclosed F.B.I. files and contemporary "interviews." I would call to Gorman's attention, as well as to the attention of other *Nation* readers, the incisive article by Jonathan Bennett in the September 7 *Guardian*. Bennett rejects the objectivity and scholarship of the Radosh-Milton book, concluding that it is a "dishonest mixture of fact and fiction." His article is an important contribution to the *Guardian*'s efforts, from the earliest days of the trial, to expose the true nature of the Rosenberg-Sobell frame-up. It should be read carefully by all progressives and left people, in view of the fact that, as *The Nation*'s June 11 editorial noted, the present Administration is "developing a similar strategy" to that projected in the 1950s around the Rosenberg-Sobell trial, in which it "exploits a prevailing mood of anxiety and blames the nation's troubles on foreign agents; on domestic dupes; on terrorism, communism, pacifism."

At a time like this, the lessons of the Rosenberg-Sobell frame-up become clearer and clearer. As I said in my *Nation* article, "We must not fall once more into the well-laid trap, but with courage and foresight, we must stand firm and, whatever the obstacles, find ways to launch a popular counteroffensive. For that offers the only real guarantee of victory."

Arthur Kinoy

TOWARD WORLD PEACE

Richmond

Sidney Lens's "World Government Reconsidered" [*The Nation*, Sept. 17] correctly reminds us of a vision we ought not forsake as a long-term goal. Yet, as the Scholastic philosophers noted, "What is first in intention is last in execution." Before that worthy goal is reached, there are many possible intermediate steps that could and should be taken.

Lens is at the heart of the matter in calling into question the "just war" (or *jihad*) theory. That fallacy still binds—and blinds—many cults and cultures.

It seems at least a reversal of priorities to demand that nation-states disarm when individual citizens are harassed or penalized for refusing to bear arms. One would imagine that the right to be conscripted for military service is one many citizens would gladly relinquish. By delegating control of this area to international authority, the people of the world might be made more secure.

It is not a new idea, but it would be a good first step to see a new article in the charter of the United Nations that reads: "Neither the United Nations nor any of its member states shall compel any person to serve as a combatant or noncombatant member of an armed force. No penalty shall be imposed on any person who does not serve as a member of an armed force."

Jerome D. Gorman

CROSS WORDS, KIND WORDS

Hillsdale, N.J.

I find the crossword puzzles by Frank W. Lewis to be irritating as hell. This from a person who enjoys solving the double acrostics that appear every other week in *The New York Times Magazine*. *The Nation*'s puzzles annoy me for reasons I won't try to put into words. But I could if I wanted to. Take, for example, 17 across in the September 3-10 issue: "Secretariat, perhaps, if the chores are difficult." Guessing the answer was easy, but it was a *guess*. Stupid damn clue.

The Nation continues to excel. I wrote off *The New Republic* four or five years ago—about the time it started to copyright the column by Brooklyn Rapid Transit. As a matter of fact, *The Nation* is magnificent—no, just top-notch—except for that stupid crossword puzzle.

William R. Bowle

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EDITORIALS.

The Spirit of Glen Cove

The politics of petulance dominates the Reagan Administration's style and substance in this dangerous season. In the absence of thoroughly analyzed policies or clearly defined strategies, the President and his aides resort to schoolyard tantrums and reckless rhetoric. Soviet Foreign Minister Gromyko is denied landing rights at two airports; the United Nations and its least agreeable members are invited to sail away "into the sunset" by Charles M. Lichenstein, an American delegate; eight Nicaraguan Councilors of State are denied visas to visit Harvard Law School to discuss electoral laws; the Administration hides from Congress because it cannot face up to the issue of the War Powers Act as it pertains to American warmaking in Lebanon. These are petty and peevish acts, but their consequences are menacing beyond their size.

In the Gromyko affair, Reagan's first impulse was to avoid appearing to be to the left of New Jersey's conservative Republican Governor, Thomas Kean, and New York's liberal Democratic Governor, Mario Cuomo. The Governors had seized the jingoistic opportunity afforded by the Korean airliner incident to keep Gromyko's Aeroflot plane from landing at Newark or Kennedy airports. Cuomo, at least, ought to have known better and acted wiser. His campaign to recover "the soul of the Democratic Party" is off to a shaky start when it emulates the soul of the mayor of Glen Cove, New York, who is battling to keep Soviet U.N. Mission staff members off the town beaches.

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The Administration waffled and weaseled: Gromyko could land at an Air Force base if he really wanted to come to his twenty-seventh U.N. General Assembly meeting. Reagan must have known that diplomatic protocol obliged the Russians to decline the offer of a furtive entrance. In fact, the gambit was meant to humiliate "the enemy" and score propaganda points. What he should have told Congress and the public was that the action would dampen the whole Soviet-American dialogue at a time when frightening confrontations appear likely on a range of issues.

Delegate Lichenstein widened the wound with his outburst in the General Assembly. Not even in the frostiest hours of the first cold war did an American—or Russian—threaten to take all the marbles and end the game of international diplomacy, frustrating and unproductive as it may be. Lichenstein (who had the "hearty approval" of the President) looked more like an aggrieved tennis star screaming about a bad call than a representative of a great power.

The exclusion of the Nicaraguans is particularly unfortunate, because their meetings at Harvard were supposed to help them prepare their country's postrevolutionary election laws. President Reagan likes to say that the lack of national elections in Nicaragua since the Somoza regime was overthrown four years ago is proof of that country's totalitarian ways. The U.S. Embassy in Managua said there had been insufficient time to study the visa applications (delegation members included the president of the Supreme Court, the secretary of the Council of State, a high-level Catholic Church adviser, a representative of a Nicaraguan women's group and a representative of the Popular Social Christian Party). What's really happening, of course, is that Reagan is trying to isolate Nicaragua from the United States and the West, to force the fulfillment of his prophecy that it is another Soviet satellite in the Caribbean Basin.

Most unsettling of all this lot of childish maneuvers was Reagan's stonewalling on the War Powers Act. It is not that Congress is in a mood to do anything sensible in regard to the Middle East, such as demand a pullout of American troops and call for regionwide negotiations leading to a general settlement of the Lebanese-Palestinian-Israeli war. But Reagan would not confide even to such a complaisant Congress, or divulge his plans to a confused public. At last, refusing to take any initiative, he instructed his supporters on Capitol Hill to press for a "compromise" on pending legislation to implement the War Powers Act, which would buy time for more muddled maneuvers in Lebanon.

Over there, the war is escalating at a brisk clip. Since August 29, when two U.S. Marines were killed by mortar fire at Beirut Airport, Reagan has extended the American "peacekeeping" role to full-scale military support of the regime of President Amin Gemayel and the "Lebanese Army" he commands. U.S. officials say they're trying to arrange a cease-fire, but nothing of the sort appears likely to last for more than a few hours in the fields of fire.

Indeed, it is hard to find anything optimistic in the developing scenario. Gemayel's minority Christian government, dominated by his semi-fascist Phalange movement, has only a tenuous hold on the predominantly Moslem country. Israel is rapidly assimilating its occupied zone in southern Lebanon: the population there is being taught Hebrew in crash courses; the economy is virtually integrated with Israel's; and according to firsthand reports, the territory has the feel and look of an Israeli province.

Syria's position in Lebanon's bordering regions is no less permanent, as Fouad Ajami writes on page 268. The "partition" of Lebanon, predicted by many correspondents when Israel invaded the country last year, is now an accomplished fact.

The least stable factor in the Lebanese political equation is the Gemayel government, and it is to that element that Reagan is so fully committed. But without a massive Vietnam-style effort, the United States cannot hope to keep its faction indefinitely in place, let alone in command. And as the commitment deepens, the very presence of American troops as an army of occupation will contribute to destabilization, rather than to a resolution of the conflict.

On September 21, further scenes were added to the Vietnam II shooting script. Testifying before the House Foreign Affairs Committee, Marine Commandant Gen. P.X. Kelley Freudianly referred to "Marines who went into Vietnam," and President Reagan told a group of broadcasters that U.S. troops were needed to end the "Soviet-sponsored aggression against Lebanon." The question is who is the director—who will say, "Roll 'em!"

Movin' On Up

A veritable Niagara of ironies drenches the selection of the first black Miss America, New York's Vanessa Williams. First of all is the Faustian victory of sexism over racism: the venerable Atlantic City beauty pageant—which excluded black beauties for the first thirty of its sixty-two years—still stands as a bastion of every mystique that feminists have attacked. Williams told an interviewer after her coronation that she did not want to be seen as a black heroine; apparently she has no qualms about a career as a sex object.

Then there is the way the beauty packagers, image enhancers, judges and contestants conspired to project a winning "look" that is deracinated, depersonalized and devoid of ethnic energy or charm. It was almost impossible to pick out Williams from the collection of post-adolescent Linda Evans look-alikes and shampoo salesladies that paraded down the runway. If this was a triumph of "pluralism," as civil rights leader Joseph Lowery said later, it had an oddly homogenized cast. A long-ago line of the humorist Harry Golden, on the occasion of Barry Goldwater's Presidential nomination, seemed more apropos. "I always thought," Golden said, "that America's first Jewish President would turn out to be an Episcopalian."

The final irony is that a society which is still profoundly racist along its entire institutional base—in its corporate structure, political establishment, community organization—can thrill to the symbolic success of an individual from an excluded minority. Last week it was Vanessa Williams; the

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week before, black astronaut Guion Bluford Jr.; before that, a sports star or TV comedian or fast food tot. The key, of course, is individual symbolism rather than collective power. Minority heroes tend to lose their appeal when they travel in large groups.

And yet—Vanessa Williams's story has a particular political resonance this year, and it would be wrong to discount it for the obvious problems and contradictions it presents. The past year has seen a startling surge—or resurgence—of black demands for power and privilege, after a decade of battered quiescence. "Our time has come," Chicago Mayor Harold Washington proclaimed in his campaign. "We want our share," Jesse Jackson insists.

White America is not ready, by a long shot, to meet those implicit demands. What it can do, at least, is come up with individual success stories, new symbols of liberal good intentions. If that's what Miss America is, more power to her. But more *power*. After all, as they sing every week on *The Jeffersons*, "It took a whole lot o' tryin', . . . but we finally got a piece o' the pie."

Time Runs Out

Time Inc.'s announcement that it was cutting off the financial life-support systems of its ailing magazine *TV-Cable Week* caused a lot of chortling among its media rivals. It's always nice to see a competitor lose $47 million. Of course, when the magazine was launched last April, everyone thought the idea of a *TV Guide* for cable viewers was a sure-fire moneymaker, and Time Inc. rippled its financial muscles, saying it would spend $100 million to make *TV-Cable Week* a success. Unfortunately, the cable operators hadn't been asked if they wanted to participate in the venture; it turned out that a lot of them didn't. Some feared Time Inc. (a rival, since it owns Home Box Office); others were contractually committed to other cable guides or didn't like the product or its high cost to their subscribers ($2.95 a month). As for the *echt TV Guide*, it revamped its cable coverage and showed it could provide as many listings for a lower price; it also served up substantial articles, in contrast to *TV-Cable Week*'s steady diet of puffballs. God bless free enterprise.

But the lessons of Time Inc.'s disastrous venture should not be confined to the business pages, or to M.B.A. marketing seminars. When a giant company drops such a large bundle in such a misbegotten effort, the question naturally arises: Could the money have been put to better use? Here in the political magazine world, where a $47 outlay for pencils is not taken lightly, $47 million would go a long way. In fact, it would keep *The Nation*, *The New Republic*, *In These Times*, *The Guardian*, *Working Papers*, *Mother Jones*, *Inquiry* and a lot of others in business for at least a decade.

Instead, we saw $47 million and the energies of 250 employees squandered on a magazine devoted to informing the public that the 8 P.M. movie is rated R. Time Inc. claimed, by way of excuse, that it couldn't adequately test-market its new magazine, but it might have tried putting out a magazine people wanted to read. Yes, read—reading is coming back these days, and too many magazines on the stands were spawned in petri dishes in market research labs. The idea is that if you can target some demographic or special-interest group—like frequent flyers or credit card holders or cable TV subscribers—advertisers will buy "it." Putting out a magazine is an afterthought. Then too, there is the "thar's gold in cable TV" illusion going around, and like many a greenhorn before it, Time Inc. was lured by the hope of making a big strike. One must ask, though: Why would TV viewers want a magazine that merely regurgitates the stuff they see on the screen?

Even if one assumes that cable viewers would have loved *TV-Cable Week* if they had had a chance to see it, their seeing it depended on whether or not the owner of their cable system wanted to offer it to them. Could it be that Time Inc. assumed that its size and financial muscle would enable it to shoulder its way into this market, whatever the cable operators' initial feelings? The prospect of obtaining several million paid subscribers simply by bringing a few dozen cable operators into line—rather than by expensive direct-mail solicitations—must have made the gamble seem worthwhile. In short, Time Inc. could have been aiming for a monopoly of the cable-guide business, and failed because it could not find—or force—enough cable operators to collude with it. Besides, monopolies are illegal. (God bless, etc.)

At any rate, the next time Time Inc. thinks about taking a $47 million flyer, we suggest they come to us first. We know a lot of sound, businesslike uses to which the money could be put by editors who believe that magazines should be edited for thinking human beings—not demographics.

CAREY McWILLIAMS FELLOWSHIP

Jane Oski, a 1982 graduate of Middlebury College, who served as a *Nation* intern in the summer of 1982 and has since worked for *The San Juan Examiner* and *The Telluride Times* in Telluride, Colorado, has been selected as this magazine's third recipient of the Carey McWilliams Fellowship in Independent Journalism. The six-month fellowship, which carries with it a stipend of $200 per week, is named in honor of Carey McWilliams, who joined *The Nation* in 1945 and served as its editor from 1951 to 1975. The purpose of the fellowships is to encourage young people and, occasionally, established journalists to pursue careers in the sort of critical journalism exemplified by the life, values and work of Carey McWilliams. Previous Carey McWilliams Fellows at *The Nation* were Christopher Hitchens and Saul Shapiro. Other publications that have participated in this program, which is administered by The Nation Institute, include *In These Times*, *Mother Jones* and *El Tecolote*.

Publications interested in proposing candidates for fellowships should contact Felicia Halpert at The Nation Institute, 72 Fifth Avenue, New York, NY 10011.

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ARTICLES.

REAGAN'S NEXT JUSTICE?

Robert Bork and The Constitution

JAMIE KALVEN

A new struggle for intellectual dominance in constitutional theory is under way at this moment. The struggle is about the duty of judges with respect to the Constitution. It is taking place out of public sight, in a sense, because it is carried on almost entirely in the law schools and in the law reviews. But that doesn't mean it won't affect our entire polity in the years ahead. The ideas that win hegemony there will govern the profession, including judges, for at least a generation and perhaps more.

—Judge Robert Bork
National Review
September 17, 1982

The struggle to which Judge Bork refers is the latest chapter in the perennial American debate over the place of judicial review in a democratic polity. That debate is, at bottom, a dispute over the role of constitutional values in American life, and it is now at a critical juncture. It is possible that the ideas of Robert Bork—and a small group of like-minded legal theorists—will soon achieve dominance in constitutional law.

This is not because of any impending triumph in the intellectual sphere but rather because President Reagan has elevated a number of the most forceful of those theorists—men who combine, to an unnerving degree, reactionary views and professional competence—to the Federal bench. There is every reason to expect that if he is reelected, he will follow the same course in making appointments to the Supreme Court, thereby determining the shape of the Court for the rest of the century.

Prediction in these matters is, of course, tricky, but several things are clear. Three of the nine members of the Court are 75 or older. The Justices farthest to the right are also the youngest (William Rehnquist is 58; Sandra Day O'Connor, 53). In view of the present alignments on the Court, even a single appointment could have great impact; depending on whom he or she replaces, the next appointee may represent the decisive vote on a wide range of issues. Two or three vacancies—and at least that many can be expected between now and the end of the next Presidential term—could produce a solid right-wing majority of Justices with the skill, the energy and the unified vision to remake constitutional law.

Robert Bork is the most prominent of the legal scholars Reagan has named to the Federal appeals court. (The others are Richard Posner and Antonin Scalia, formerly of the University of Chicago Law School, and Ralph Winter of Yale.) And his name has long been rumored to be at the top of the list of candidates for the next Supreme Court vacancy. It is hard to imagine how Reagan could, for his purposes, do better. Bork is best known outside legal circles as the man who executed President Nixon's order to fire Watergate special prosecutor Archibald Cox, but apart from that blemish, his professional credentials are impeccable: Yale law professor, Solicitor General in the Nixon and Ford Administrations, judge on the United States Court of Appeals for the District of Columbia Circuit. And he is more than just a reliable conservative vote. He is an intellectual force: a formidable and uncompromising advocate of an approach to constitutional interpretation that would severely restrict the role of the Federal judiciary—and of constitutional values—in our public life.

The fullest expression of Bork's philosophy is a 1971 article in the *Indiana Law Journal*, "Neutral Principles and Some First Amendment Problems," in which he sets forth his general approach and then, by way of illustration, applies it to the First Amendment. The result is one of the most restrictive theories of freedom of speech ever advanced. After sketching his stance on constitutional interpretation, I want to consider his First Amendment analysis in some detail, for it is at the level of concrete application that one can most clearly see what is at stake in the debate over constitutional theory.

Bork's point of departure is the familiar conservative complaint that the Federal judiciary has exceeded its legitimate authority within our democratic system. His argument goes like this:

The Federal courts—above all, the Supreme Court—have usurped the legislative function. In the guise of interpreting broad constitutional language, judges have substituted their personal preferences for those of the majority as expressed in law. If such "judicial imperialism" is to be curbed, we must insist that judges decide constitutional cases in accordance with "neutral principles." Those principles must be neutral not only in the sense of being defined in general terms and applied evenhandedly; they must also be neutral *in derivation*—that is, they must reflect the intentions of the framers of the Constitution insofar as those intentions can be inferred from the text, the history of its adoption and "their fair implications." There is no place in constitutional adjudication for value judgments by the Court; its proper role, its only role, is to implement the value judgments of the Constitution's framers. When the Court strikes down legislation on any other basis, it abuses its power and invades the domain of democratic choice.

In other words, where the text and the historical record do not unambiguously yield the meaning of a constitutional provision—and this will be true in varying degrees of all but the most specific provisions—the articulation of constitutional values is beyond the competence of the courts. The

Jamie Kalven is preparing for publication a two-volume study on the First Amendment, on which his father, Harry Kalven Jr., was working at the time of his death.

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Constitution speaks of broad values like equality and liberty, but judges who attempt to give concrete meaning to such general concepts without clear and specific guidance from the text or history overstep their proper role:

> There is no principled way in which anyone can define the spheres in which liberty is required and the spheres in which equality is required. These are matters of morality, of judgment, of prudence. They belong, therefore, to the political community.

Bork's point is not simply that the farther judges move from the text, the greater the risk of error becomes. It is that they will inevitably err, will inevitably impose their own values: "Where constitutional materials do not clearly specify the value to be preferred, *there is no principled way to prefer any claimed human value to any other.*" [Emphasis added.]

Here we touch upon the source of the hard-edged clarity of Bork's vision, the source of both its rhetorical power and its essential poverty—a moral skepticism so profound that it renders weightless everything in the Constitution that is not specifically nailed down. Bork rejects the possibility of moral knowledge; for him, all questions of value reduce down to matters of preference. That is the premise on which his approach to constitutional adjudication—and, presumably, to all moral and political questions—rests. Viewed through this prism, the only legitimate source of constitutional meaning is the framers' intentions; any other line of inquiry into the meaning of a constitutional value can yield only an expression of the judge's personal preferences.

In short, in Bork's view, constitutional values have no independent reality apart from what can be gleaned from the text and the historical record, and they make no claims upon us. In a passing gibe at the Equal Protection Clause—the textual basis of the egalitarian legacy of the Warren Court and a primary target of his argument—he offers what he calls the "Equal Gratification Clause," the principle that where the Constitution does not provide specific direction, there is no way "to decide that one man's gratifications are more deserving of respect than another's or that one form of gratification is more worthy than another." In other words, some like equality, some like pistachio ice cream, and there is no principled way to distinguish between these "gratifications."

If one grants Bork's central premise, if one shares the nihilism that informs his approach, then his severe conclusions follow. If, however, one believes in the possibility of moral knowledge, if one believes that our understanding of constitutional values can be deepened by experience and advanced by moral inquiry, then one must reject his stance as profoundly illogical and intolerably wasteful. For it is precisely the most central constitutional values that, by virtue of their generality and scope, are rendered unsuitable for judicial enforcement and so are surrendered to the will of the majority. The net result of his argument is to convert broad public values into matters of private taste.

This perverse constitutional alchemy can be observed when Bork turns to the First Amendment. It becomes clear that what animates his approach is not his stated concern with "neutral principles" but his underlying moral skepticism. And its impact is devastating. In a world in which everything is a matter of taste, the only way he can see to practice fidelity to a constitutional provision—the only way he can see to guard it against misinterpretation—is to empty it of meaning.

Contemporary First Amendment doctrine—even its most ardent aficionados would concede—is messy. It is various and complex; it defies succinct summary. Bork's thesis, by contrast, is the soul of simplicity and clarity:

> Constitutional protection should be accorded only to speech that is explicitly political. There is no basis for judicial intervention to protect any other form of expression, be it scientific, literary or that variety of expression we call obscene or pornographic. Moreover, within that category of speech we ordinarily call political, there should be no constitutional obstruction to laws making criminal any speech that advocates forcible overthrow of the government or the violation of any law.

One must pause to absorb the full import of those confident words. We are accustomed to thinking of First Amendment protection as a general rule subject to a few limited exceptions. But Bork asserts that government power to regulate expression should be the general rule, and constitutional protection the exception. Consider all that he would banish from the domain of the First Amendment: art, science, philosophy, literature—all expression, all communication between human beings, that is not "explicitly political." And within that category he would deny protection to the advocacy of revolution and the violation of any law. In other words, the only speech courts may protect is that which is explicitly political in character and not too radical in its conclusions.

Bork arrives at this pinched and ungenerous reading of the First Amendment by way of a brisk exercise in the "neutral derivation" of constitutional meaning: Although neither the text of the amendment nor the history of its adoption provides much guidance as to its meaning, the governmental structure established by the Constitution does. Representative democracy is "a form of government that is meaningless without open and vigorous debate about officials and their policies." Hence "even if there were no first amendment," freedom for "explicitly political" speech "could and should be inferred." And despite the fact that there *is* a First Amendment, no more can properly be inferred. The sole end served by the amendment, he argues, quoting a famous opinion of Justice Louis Brandeis, is the "discovery and spread of political truth."

Few would dispute the proposition that the First Amendment protects political speech, but does that exhaust its meaning? Are there no other constitutional rationales for freedom of speech besides facilitating the democratic process? Bork insists there are not. The rationale for constitutional protection, he argues, must be *unique* to speech; otherwise, there is no neutral basis on which to protect speech but not to protect the various forms of conduct that serve the same ends. It follows that benefits often attributed

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to free speech—such as "the development of the faculties of the individual" and "the happiness to be derived from engaging in the activity"—do not provide acceptable rationales for First Amendment protection:

> An individual may develop his faculties or derive pleasure from trading on the stock market, following his profession as a river port pilot, working as a barmaid; engaging in sexual activity, playing tennis, rigging prices or in any of thousands of other endeavors.

Thus, a judge "cannot, on neutral grounds, choose to protect speech that has only these functions more than he protects any other claimed freedom."

This is sophistry. The fact that playing tennis and reading Shakespeare, rigging prices and writing a poem, all contribute to personal happiness and self-development does not mean that there is no constitutional basis for distinguishing between them. Indeed, the framers of the First Amendment made such a distinction when they explicitly and without qualification provided constitutional protection for *speech* as distinct from conduct. Such protection has traditionally been understood to reflect a perception that while speech may serve the same ends as various forms of conduct, it does so without generating the adverse effects that may attend other activities, and further that it is especially vulnerable to unwarranted suppression and hence in need of special protection.

Perhaps the First Amendment *should* be limited to speech that contributes to the political process, but it is hardly a sufficient argument for that proposition simply to reject other rationales for protection on the ground that they do not satisfy the artificial requirement that the ends served by the First Amendment be unique to speech. This requirement is little more than a logical trick. And one might well ask whether even the speech Bork would protect can really be said to satisfy it: Do not various forms of conduct convey political messages and thereby serve the same ends as political speech?

In any case, it is not necessary to assert other rationales for First Amendment protection in order to challenge Bork's theory. It can be criticized on its own terms. Indeed, the really startling thing about the theory is how poorly it serves the sole function he ascribes to the First Amendment: protection of speech that contributes to the democratic process. In this respect, the theory confounds indignation: it is hard to know whether to be more disturbed by all that he is prepared to sacrifice in the name of democracy or by his insensitivity to the requirements of democracy. Perhaps both reactions amount to much the same thing. For his conception of democracy is dictated by his moral skepticism and is untouched by any other values or aspirations. It is a vision not of vigorous self-government but of blunt majoritarianism as the appropriate institutional response to a world in which all is preference.

As conceived by Bork, the great public debate under the First Amendment is a gray and impoverished affair. His theory would produce a bizarre divorce of political discourse from its social and cultural foundations. Many—perhaps most—political issues cannot be discussed fully and intelligently without drawing on other bodies of thought. The artistic, literary and scientific speech Bork would exclude from First Amendment protection is often integral to the debate over a public issue. Moreover, works of an artistic, literary or scientific character may inform our understanding of political matters and deepen the judgment we bring to our responsibilities as citizens.

It is instructive to contrast Bork's theory with that of Alexander Meiklejohn, the great proponent of the principle that the First Amendment is intended to serve the ideal of self-government. There is an obvious kinship between their theories. Both derive the meaning of the First Amendment from its relationship to democratic government; both distinguish between speech that is concerned with public matters and speech that is not. Yet they reach widely divergent conclusions as to the scope of the First Amendment.

When Meiklejohn first articulated his theory in the late 1940s, it appeared that his category of "public"—and hence protected—speech was almost as narrow as Bork's category of "explicitly political" speech. But in response to criticism that his theory left much speech of undeniable public value unprotected, he ultimately broadened the category of protected speech to include not only public discussion of public issues but also education, philosophy, science, literature and art. The people "need novels and dramas and paintings and poems," he wrote, "because they will be called on to vote." That concession may, as some have argued, have damaged the coherence of Meiklejohn's theory. It also testified to his good sense.

Bork, by contrast, stands his ground. While acknowledging that "the publication of a novel like *Ulysses*" may contribute to the formation of "attitudes that ultimately affect politics," he insists that there is no neutral basis under the First Amendment for a judge to distinguish between censorship of the novel and "regulations of economic activity, control of entry into a trade, laws about sexual behavior, marriage and the like," for those activities too may contribute to the formation of political attitudes.

The upshot is that under his theory, speech that serves the function he ascribes to the First Amendment—speech that is political, albeit implicitly or indirectly—would be denied protection. Such speech may shape our perceptions of the world, of human nature, of political arrangements; it may touch our politics at the deepest level. Yet Bork would cede it to the domain of the censor in order to guard against the threat to democracy posed by allowing judges the latitude to distinguish under the First Amendment between, say, the suppression of *King Lear* and a restriction on the sale of underwater real estate.

At this juncture we can see one of the major ways in which Bork's philosophy affects his approach in practice. Confronted by the need to define the scope of constitutionally protected activity—by the need to draw lines—he is compelled by his moral skepticism to do so in terms so narrow that they amount to a surrender of the particular activity to the will of the majority. Thus he can agree that a novel like *Ulysses* advances the ends of the First Amendment, but

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his moral skepticism prevents him from drawing a line that would protect it—a problem he resolves by excluding all literature from protection. This strange dynamic reaches its climax with his argument that advocacy of the violent overthrow of the government or of the violation of any law should be categorically excluded from First Amendment protection. Here, the speech he surrenders to censorship is not merely valuable within the terms of his theory; it is essential.

The keynote of his argument is a perverse misreading of the phrase he borrowed from Brandeis to describe the end served by the First Amendment: the "discovery and spread of political truth." He turns classic free speech rhetoric inside out and defines "political truth" as "what the majority thinks it is at any given moment." "It has no unchanging content," he writes, "but refers to the temporary outcomes of the democratic process. Political truth is what the majority decides it wants today." It follows that the advocacy of forcible overthrow of the government—speech which calls for a minority to seize control of the state—"is not political speech because it violates constitutional truths about process and because it is not aimed at a new definition of political truth by a legislative majority." Hence there is no constitutional basis for judicial intervention to protect it. Similarly, the advocacy of the violation of any law falls outside the protection of the First Amendment because it is "a call to set aside the results that political speech has produced."

Two basic issues are implicated in this tidy logical exercise. The first is posed by civil disobedience. Typically, the advocacy of this form of violating the law is an *appeal* to democratic processes, not a rejection of them. Bork does not address—or even acknowledge—the problems this creates for his argument. Under his theory, would a speech by Martin Luther King Jr. advocating sit-ins at segregated facilities have been denied the protection of the First Amendment? I am not sure that this is an intended implication of the theory, but there is nothing in the *Indiana Law Journal* article that bars such a reading.

Civil disobedience aside, the primary issue is posed by the advocacy of political doctrines that call for revolution or for the use of violence and lawlessness as political tactics. This has been the central issue of political speech in the American experience. It has elicited some of the most profound judicial reflections on the meaning of freedom of speech, and it has occasioned a series of cases, from World War I to the present, that provide rich material for understanding the dynamics of dissent in a free society.

Bork largely ignores that body of experience and analysis. Sweeping aside a half-century of doctrinal development, he argues that the law in this area should be built on two decisions of the 1920s—*Gitlow v. New York* and *Whitney v. California*—in which the Supreme Court upheld convictions for speech that in general terms and without evident effect advocated revolutionary action. Today these decisions are remembered chiefly because they prompted an eloquent dissenting opinion (*Gitlow*) and a concurrence in the spirit of dissent (*Whitney*) by Justices Oliver Wendell Holmes and Louis Brandeis on behalf of the proposition that speech may be constitutionally suppressed only if it produces "a clear and present danger" of the violation of any law.

It is from those opinions rather than from the majority opinions that the law in this area has grown. Bork acknowledges their power. Holmes and Brandeis were, he writes, "rhetoricians of extraordinary potency, and their rhetoric retains the power, almost half a century later, to swamp

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analysis, to persuade, almost to command assent." He does not, however, submit to that power. Had he sat on the Court in the 1920s, he would have joined the majority in holding that it is constitutional for a state to outlaw the advocacy of violent overthrow, no matter how general and remote from action such advocacy might be. Crisply dismissing the development of First Amendment doctrine since *Gitlow* and *Whitney*, he asserts that the majority opinions in those cases have never been "discredited, or even met, on intellectual grounds." Intended to provoke, these words have their desired effect. Why, indeed, should we protect the advocacy of force and the violation of law?

The answer rests on a premise Bork claims to share, namely that "no society in which seditious libel, the criticism of public officials, is a crime can call itself free and democratic." This principle has not always been securely anchored in American law; through much of our history the constitutional status of seditious libel was unsettled. It was only in 1964, in *New York Times v. Sullivan*, that the Supreme Court unequivocally declared that the abrasive criticism of government that in other times and places has been punished as seditious libel could not in America be made a crime. This follows, Justice William Brennan wrote for the unanimous Court, from "a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open."

Bork writes in similar, if less eloquent, terms. Indeed, he places this principle at the center of his theory. Yet he refuses to acknowledge its implications for the issue of subversive advocacy. He flatly declares such advocacy to be of "no political value within a republican system of government," as though the withdrawal of constitutional protection from this category of speech would have no implications for the speech that, by his own account, is essential to democracy: criticism of government officials and policies. But subversive advocacy does not take place in a vacuum; it occurs in a political context and is invariably part of a larger political critique. Thus, to draw the line beyond which such advocacy becomes criminal is also to determine the limits of permissible criticism of government. My father, Harry Kalven Jr., a legal scholar who wrote widely about the First Amendment, once framed the issue this way:

> If a man is seriously enough at odds with the society to advocate violent overthrow, his speech has utility not because advocating violence is useful but because the premises underlying his call to action should be heard. He says something more than "Revolt, Revolt!" He advances premises in support of that conclusion. And those premises are worth protecting, for they are likely to incorporate serious and radical criticism of the society and the government. . . . [T]here is a fundamental tension between the principle that seditious libel cannot be proscribed by law and the common sense of stopping free speech at the boundary of incitement to crime. The accommodation between these two notions is perhaps the central issue for the American tradition of free speech.

By categorically excluding subversive advocacy from constitutional protection, Bork denies the existence of this problem—or, at any rate, denies that it falls within the province of the courts. His position is that such speech is somehow rendered unworthy of protection by the speaker's hostility toward democracy. But he never explains why this should override our need as self-governing citizens to hear the speaker's criticisms and to consider his or her arguments. Thus again, Bork's theory, while invoking the democratic ideal, promotes a stunted view of the responsibilities and requirements of citizenship in a democracy.

The prevailing approach to subversive advocacy, which grows out of the Holmes-Brandeis dissents, has sought to reach an accommodation between the necessity of protecting radical criticism of the government and the claims of public order by drawing the constitutional line at the point at which advocacy merges with criminal action—the point beyond which the remedy of counter-speech is no longer available. The current standard, articulated in *Brandenburg v. Ohio* in 1969, is that the government may forbid the advocacy of force and lawlessness only "where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action."

The importance of this stringent standard resides not only in the protection it affords the most radical speech but also in the "breathing space" it provides for criticism of the government that stops well short of the line. Without such a secure margin, many potential critics would be silenced by fear and uncertainty. By drawing the boundaries of permissible advocacy at the last possible moment and with the greatest possible clarity, the Court has sought to insure a spacious forum for vigorous debate about public issues.

In Bork's view, by contrast, it is the *government* that needs breathing space: it may constitutionally claim the power to silence the least whisper of sedition. That is the meaning of a passage from the majority opinion in *Gitlow*, which he quotes and endorses without qualification:

> A single revolutionary spark may kindle a fire that, smoldering for a time, may burst into a sweeping and destructive conflagration. It cannot be said that the state is acting arbitrarily or unreasonably when in the exercise of its judgment as to the measures necessary to protect the public peace and safety, it seeks to extinguish the spark without waiting until it has enkindled the flame or blazed into conflagration . . . it may, in the exercise of its judgment, suppress the threatened danger in its incipiency.

Note the fragility of the political system evoked by that imagery. Surely a system so delicate cannot tolerate much

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NEOLIBERAL CONFERENCE

For almost 15 years The Washington Monthly *has been challenging the doctrines of both the right and the left, putting together a view of the world that we find fresher, more pragmatic, but also more idealistic. During that same period, others have been gravitating toward a similar view, which has come to be called "neoliberalism."*

We think it's time to assemble the faithful as well as the skeptical to share ideas, to argue, and to get to know one another. Toward that end, The Washington Monthly *will hold a conference the weekend of October 22 to discuss the nature of neoliberalism and its future. The subjects covered will include economic growth, entitlement programs, national security, education, and a number of matters conventional liberals tend to avoid—patriotism, entrepreneurship, religion, credentialism, patronage and democratic accountability, and how to pull the plug on the politics of selfishness.*

Participants include Governor Bruce Babbitt, Mancur Olson, Ken Auletta, Robert Reich, William Greider, Senator Gary Hart, Michael Kinsley, Kathleen Kennedy Townsend, James Fallows, Amitai Etzioni, Dr. Robert N. Butler, Senator Ernest Hollings, Nicholas Lemann, James Capra, Morton Kondracke, Robert M. Kaus, Alan Baron, Taylor Branch, Justice Richard Neely, and Senator Bill Bradley. The critics will be led by Irving Kristol. Charles Peters, editor of The Washington Monthly, *will chair the conference. Everyone—Democrat, Republican, Libertarian, or just plain undecided—who is interested in neoliberalism and its possibilities is welcome.*

The conference will be held at the Sheraton International Conference Center in Reston, Virginia, near Dulles Airport and a short drive from Washington, D.C. It will begin with a reception and dinner on Friday, October 21, followed by a full day of meetings on Saturday the 22nd, and a final breakfast on Sunday the 23rd. The cost for both nights is $250; for one night, $150; for Saturday only, $50.

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free speech. Note too the boundless logic that supports the suppression of threats of disorder in their "incipiency." If the political order is so vulnerable that all subversive advocacy must be prohibited, no matter how general and remote from action, no matter how deeply embedded in serious political criticism, then surely it is only prudent to take the next step and curtail abrasive criticism of the government that is not joined to explicit advocacy. After all, such speech is likely to breed disrespect and contempt, which may in turn lead to acts of resistance and lawlessness. And so on . . . Thus it is that in times of tension governments, if unrestrained, tend to read the threat of disorder and subversion into virtually all challenging criticism.

The constitutional standard set forth in *Brandenburg* is intended to restrain that tendency. But Bork insists that any such standard is "improper" because "it erects a barrier to legislative rule where none should exist." The irony here, the ultimate absurdity of his argument, is that he sees an intolerable threat to democracy if judges are allowed to set standards to protect the speech he calls essential to democracy—criticism of government—but he apparently sees no danger to democracy if the task of defining the limits of tolerance for such criticism is left to the government officials criticized.

This then is where his theory comes to rest. Having radically reduced the scope of the First Amendment on the ground that it protects only explicitly political speech, he greatly restricts the ability of judges to intervene on behalf of the speech that nominally remains within its protection. His singular achievement is to have fashioned a theory of freedom of speech under which most of the speech men have historically been moved to suppress would be left exposed to the will of the majority. His argument completed, the First Amendment stands all but empty: a principle—a neutral principle—which would not be offended if the clamor of "uninhibited, robust, and wide-open" public debate about the myriad things that matter to human beings was drowned out, in Brandeis's grim phrase, by "silence coerced by law."

Bork closes the article in which he presents his blueprint for overhauling First Amendment doctrine by characterizing his arguments as "tentative and exploratory." Dare we hope that Judge—and perhaps Justice—Bork will disavow the ideas advanced by Professor Bork? Is there a chance that he will prove susceptible to what my father used to call the "charisma" of the First Amendment—its power to recruit patient inquiry and generous interpretation from the judges charged with its protection?

Perhaps. But I doubt it. Bork's views on the First Amendment are an expression of a general stance toward constitutional adjudication that is anything but "tentative and exploratory," and that his every utterance about constitutional theory reaffirms. This stance is cast in the attractive idiom of neutral principles, but as I have tried to show, it is animated by a moral skepticism which is deeply alien to the way most Americans, including many conservatives, think about law, justice and the Constitution. Having seen the impact his approach would have on First Amendment tradition, a relatively settled area of constitutional law, it is not hard to imagine how it would affect more controversial and fragile constitutional traditions. For as Bork's First Amendment analysis shows, his deafness to the moral resonance of constitutional values leads inexorably to the triumph of majoritarianism over all else. It debases—trivializes—the Constitution. And it is a threat to our most basic freedoms. □

SYRIAN-ISRAELI "ALLIANCE"

The Partitioning Of Lebanon

FOUAD AJAMI

Little remains of the hope for an independent Lebanon, and still less of the prospects for a Palestinian settlement. Israel and Syria have emerged as the dominant powers in the Middle East and have divided much of the Fertile Crescent between them. While Israel's rulers push on with their dream of Greater Israel, the rulers of Syria pursue their dream of Greater Syria.

The leaders of both countries have an unsentimental reading of the world. In their interpretation, it is a world where anything goes, where memories are short and where nations unafraid to impose their dominion and to run risks can have their way.

Early last year the rulers in Damascus laid waste to the Syrian city of Hama. Thousands of Syrians perished. In the same year Israel's armor devastated what remained of the city of Beirut.

Each nation has its own way of justifying its excesses. Israel invokes lofty liberal sentiments and appoints a commission of inquiry to look into its grim deeds. The victims of its power have been rendered incoherent and are unreliable witnesses to their own ordeals. Syria lacks Israel's liberal tradition and the guilt pangs that come with it. The Syrian rulers do things the only way that country boys from the impoverished Alawi Mountains know how to do things: brutally, without moral equivocation. That kind of "clarity" brought them the power they now wield. They know and need no other way.

Military power has brought considerable economic benefits to both Syria and Israel. They have done well by playing tough, by securing turfs large enough that those with money and weapons—Americans, Russians and Saudis—have no choice but to pay.

Henry Kissinger once said that Israel and Syria deserve each other. He could have added that they desperately need each other. They are linked in a number of common or parallel endeavors: supporting Iran against Iraq; discrediting

Fouad Ajami, author of The Arab Predicament *(Cambridge University Press), is a professor of Middle East studies at the School of Advanced International Studies at The Johns Hopkins University.*

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the rulers of the Arabian Peninsula, the Saudis; persuading their superpower patrons to provide whatever is needed without asking too much in return. But the Syrian-Israeli policies toward the Palestinians and the Lebanese have been the shrewdest and most relentless of all those endeavors.

The men who govern Israel and Syria have never accepted the claims of Palestinian nationalism. Israel's version of its own history precludes a coming to terms with the Palestinians. Likewise, the custodians of power in Syria are heirs to a political tradition that saw Palestine as an extension of Syria, as its southern domain. "You do not represent the Palestinians any more than we do," President Hafez al-Assad is reported to have told Yasir Arafat at the outset of the war in Lebanon. "Do not forget, there is no Palestinian entity. There is Syria. You are an integral part of the Syrian people; Palestine is an integral part of Syria."

So long as it lasted, the Lebanese sanctuary gave the Palestinians a measure of autonomy in the face of such Syrian claims. The Palestinians were protected by the fiction of Lebanese sovereignty. But they were a doomed people in an exposed place.

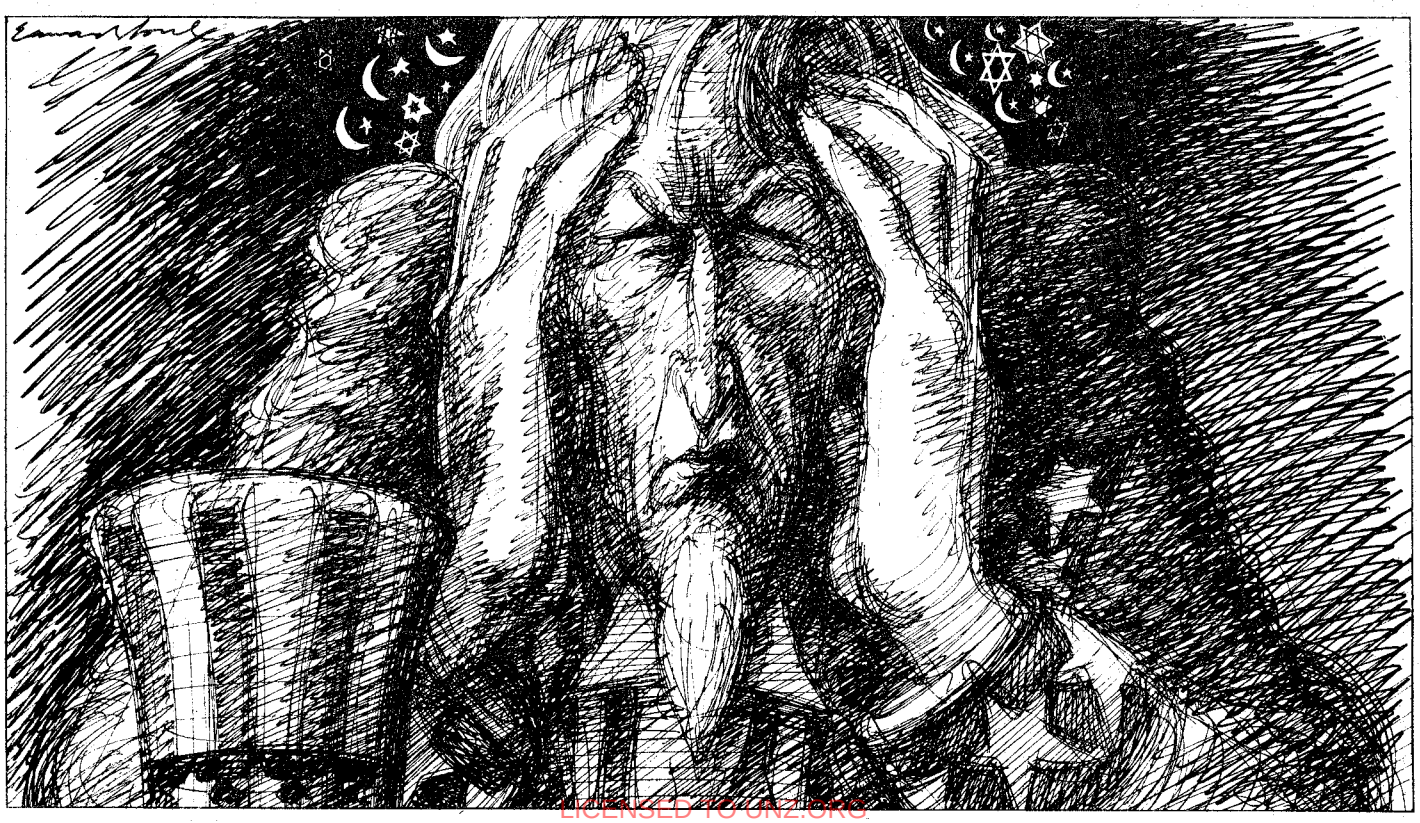
In the aftermath of the 1982 war in Lebanon, Syria inherited the task of destroying the P.L.O., which Israel had nearly completed. Syria had the power on the ground, where it counted. The Israelis had destroyed the hitherto secure Palestinian base in West Beirut. The small remaining Palestinian presence in Lebanon was in Syrian-dominated territory. When the Syrian authorities put Arafat on a flight out of Damascus in June, they were sending him into the political wilderness and signaling the return of the Palestinian past, a return to Palestinian dependence on established Arab states.

Under the Syrian scheme, the remnants of the Palestinian movement would be under Syrian protection, with Damascus reaping all the diplomatic and economic advantages of representing their claims. Henceforth, foreign diplomats seeking a settlement of the Palestinian problem, whether an American secretary of state or an anxious Saudi prince, would have to journey to the Syrian capital as suitors.

If the second struggle for Palestine is waged under circumstances that find the Arab nations no more coherent and no more prepared than they were during the first struggle, which culminated in the establishment of Israel, the Syrians will play the role of Palestinian patron for all it is worth. As the dispossession of the Palestinians continues, as what remains of their world on the West Bank is lost to Israeli settlers and real estate speculators, Syria will provide those who have still not given up the romance of a "war of national liberation," and those others who have a vested interest in maintaining that a Palestinian victory is at hand, with the illusion that the fight is continuing and that the power and tactics of Damascus are a match for Israel's.

"There are two ways of losing what remains of Palestine," a wise Arab observer told me. "On our knees or standing up." Syria offers an Arab world understandably eager to postpone the moment of reckoning about the Palestinian question the chance to bury its head in the sand. And the Syrian rulers intend to get paid, in the tangible and intangible ways that states get paid, for that service.

That the Palestinians will eventually be dispossessed of their territorial and political claims is a possibility the Syrians can live with. Damascus is, at any rate, helpless to reverse the process. Fate has been cruel to the Palestinians. It placed them in the path of more formidable nations. No one has offered the Palestinians a fair deal—not Israel,



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which sees them as squatters, not the Arab regimes that manipulate them and speak in their name, not the distant superpowers, which have no reason to care what happens to them.

The government of President Assad is in a rule or die situation. In Syria few tears are shed for a loser. As the rulers in Damascus see it, the Palestinians must be prevented from going their own way or from casting their lot with the Jordanian monarchy. In that interest, too, Syria and Israel are partners. The option of a Palestinian homeland linked with Jordan on the West Bank must be eliminated if Israel's dominion there and Syria's hegemony in the councils of Arab power over matters Palestinian are to be achieved.

For the Syrian-Israeli charade to continue, Lebanon must remain a battleground and a sideshow. The Lebanese are all too eager to oblige, for they, too, appear to know no other way. Through the ages, the Lebanese have fragmented into rival clans that seek support from foreign patrons. Their polished manners and sophistication are, and always have been, used to delude themselves and others. But Lebanon's two mighty neighbors will not be deluded. They will go on making it impossible for the Lebanese to find a different way. Lebanese clients and satraps will be armed and paid and encouraged by both Israel and Syria. Israel has its favorite Lebanese, Maj. Saad Haddad, and Syria has *its* men in Lebanon—former President Suleiman Franjieh, former Prime Minister Rashid Karamei and the young Druse leader Walid Jumblat. The fact that Jumblat's father was murdered by the Syrians points up the Lebanese dilemma. In the hell that is Lebanon today, the country's two neighbors have plenty of room to meddle, because the Lebanese are afraid of one another, because they are unable to reconcile the many warring Lebanons, the communities with vastly different memories and aspirations.

One group, the Phalange, has claimed state power, and it has sent its soldiers into Druse territory to assault the stronghold of a community that has been fighting for its autonomy for centuries. The Druse have thus been forced into dependence on Syria, and the old Lebanese story of tribal feuds and outside intervention is played out again for control of patches of land that no longer matter.

That is why the extravagant Lebanese and American hopes for a "new" Lebanon were wishful thinking. And that is why the Israeli-Lebanese accord of May is a dead letter. Many of the Lebanese who believed that the war gave their country a new chance have despaired and given up. A Lebanese social contract is nowhere in sight. And Lebanon's two neighbors are carving out their spheres of influence there—Syria in the Bekaa Valley, Israel in the south. Soon, perhaps, even the fiction of Lebanese sovereignty in those two areas will be dispensed with, and scriptural passages will be found to provide Israel and Syria with a right to the land under their control.

Does the story end there? Have not Israel and Syria overreached themselves? Perhaps the region will eventually prove too small for the appetites of both nations, and they will blunder into war against each other.

It does not take any great power of imagination to see how the tacit agreement between Israel and Syria might come apart. A different relationship between the two superpowers would deprive the two regional powers of much of their leverage. A different Arab world would bring the Syrian rulers to account. A different Egyptian-Palestinian relationship could make it possible for Arafat, now stranded in Tunis, to go to Cairo and from there pursue whatever remote chance is left of a Palestinian-Israeli compromise. A different Jordanian-Palestinian relationship might enable the Palestinians to break free of Syria's grip. And so on.

But all those possibilities remain in the realm of conjecture. Until a better day dawns, the Syrian-Israeli partnership will continue to the advantage of both. And those who happen to be in its way will suffer. □

TALES OF CONGRESSIONAL INTERNS

That Protest Summer of '67 ('83)

MARK GREEN

The President increases our involvement in a distant local war and implies that his arms critics are Kremlin dupes as the Justice Department prosecutes young men who fail to register for the draft. The President, of course, is Lyndon Johnson, the war is Vietnam—and it is July 1967, exactly sixteen summers ago.

The son of suburban Republicans, I spent a good deal of time that spring at Cornell getting educated about our Vietnam War policy—for example, by reading Fulbright's *The Arrogance of Power* and Edmund Stillman and William Pfaff's *Power and Impotence*. The prevailing derisive suffix was not "-gate" but "-nik" (as in "peacenik"), and students were fixated on one issue—The War. By the time I arrived as a Congressional intern in Senator Jacob Javits's office in late June, I had set two modest goals for my ten weeks in Washington—be a good intern and end the war. Then, as now, the ideal Congressional intern was supposed to be like the ideal hairpiece—effective but unobtrusive. Instead, I adopted as my summer's credo Andrea del Sarto's view that "a man's reach should exceed his grasp."

About twenty interns from different Congressional offices—a well-scrubbed, quintessentially Ivy League group—shared my views on the war, and we held several meetings to draft a letter protesting U.S. involvement in Vietnam, which we intended to circulate for intern signatures and send to the President. My long-winded fifteen-page version was condensed to two pages of passionate and earnest prose. ("We sign this statement as a matter of conscience to go on record before our nation that we

Mark Green is the president of The Democracy Project, a public-policy institute, and co-author of the forthcoming Reagan's Reign of Error *(Pantheon). This article is based on his remarks to Congressional interns this past summer.*

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can no longer condone this war through our silence. . . . Because our Government thinks it is so right, it has become self-righteous, and has turned a local struggle into an ideological war in which hundreds of thousands of people have died. . . .")

To be sure, sending a protest letter sounds pretty tame today, compared with other events of the Vietnam era—bombings of banks, the killings at Kent State. But in July 1967 the antiwar movement was in its infancy, and it must have been a slow summer for news. For when I sauntered in to work on the morning of July 21, I found on my desk an uncharacteristically huge stack of phone messages. "You're dead," a secretary sitting nearby helpfully explained.

The news of our letter was out. Our rump caucus of war critics had been infiltrated by a pro-war intern, who had been ordered by his conservative Republican boss to pilfer the letter. That morning's *Washington Post* carried a story about our group and reported that the previous day this Midwestern Congressman had made a speech on the floor of the House, vowing "to expose to public light activities of a group of 20 ringleaders . . . behind closed doors . . . about which you may not be aware." He charged that we were a "spoke emanating from a hub," and that the hub was something called the Washington Spring Mobilization Committee, whose members included Dick Gregory, Julius Hobson, Muhammad Ali and "hippies who work with Hap [*sic*] Brown's SNCC"—all people none of us had ever met. The Congressman was Robert Michel of Illinois, now the minority leader of the House.

Perhaps Michel thought our letter would be a new "Pumpkin Papers," documenting treasonous activity, which would boost his political career. Instead, he boosted our cause, for his dramatic announcement attracted the kind of public attention that a handful of college seniors could not hope to gain on their own.

My life suddenly became a 45 rpm record played at 78. Not all of the attention was desirable or flattering, however. Within an hour of my arrival, an enterprising representative of the International Clipping Service called and offered to send me every newspaper article from around the country in which my name appeared for "just $256 a month." (Just? Interns received no pay.) A researcher for columnist Drew Pearson asked me for information on Representative Michel; feeling way over my head, I demurred. The Chinese Embassy called, threatening to cancel its annual summer party for Congressional interns unless I promised not to circulate my "left-wing petition." (I didn't *recognize* Taiwan, much less want to go to its party.) A Cornell official urged me to "keep Cornell's name out of this. The alumni will never understand."

As for my employer, Senator Javits was understandably peeved at the impression that his interns were drafting his foreign policy positions. Mary McGrory wrote a column in *The Washington Star* entitled "Memo to a Senator's Intern (from his Senator)": "Dear Ambrose: I am writing to you because, as you know, due to the pressure of your other activities, you have been unable to fit a little visit with me into your full schedule. . . . Do you think you could give us some advance notice when the camera crews are coming to interview you for television? I was dictating the other morning and one of them told me he had to put you at my desk because of the light."

The press coverage was generally favorable, however, focusing on the David and Goliath symbolism and the issue of whether interns had the right of free speech. "Are Summer Interns Muzzled?" was the headline in *The Washington Daily News*. And, as my mother will never forget, the *Chicago Tribune* listed me as one of "the 10 most radical students in America" (my most radical act up to that time was writing a college thesis sympathetic to birth control).

Many members of Congress regarded us as overreaching staff members rather than outspoken citizens. "The intern program is not a political convention, and it is not a forum for the propounding of your own political, economic or social philosophy," said Representative J.H. Kyl, an Iowa Republican. Dixiecrat Mendel Rivers (they were called Dixiecrats, not Boll Weevils, then) announced, "We must get these pro-Communist agitators off the Hill." And upping the crescendo there was Representative Jacob Gilbert of New York, who remarked to a colleague, "I'd like to beat the shit out of the kid who started this."

In a laudable outbreak of democracy, the pro-war interns began circulating rival petitions. A letter circulated by an intern in Senator Ernest Hollings's office, which had been signed by fifty other interns, actually contained the following sentence: "We are not making Vietnam a desert but

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rather an oasis." A group calling itself the Ad Hoc Committee for Responsible Interns solemnly urged the adoption of a code of intern ethics, which said that "Congressional interns should show respect for the Congress and the entire government of the United States."

The antiwar interns scoured the Hill for signatures. We encountered many interns who were afraid they would be fired if they signed. Some prelaw students feared trouble with state bar character committees. (To them I said, with all the sanctimony of a 22-year-old, "If there's another McCarthy, *I* lose; but if there's another Nuremberg, *you* lose.") In contrast, an intern from the office of Representative Don Edwards, a California liberal, jokingly told us that she might lose her job if she *didn't* sign. Senator Mark Hatfield said that if he were a Congressional intern, he would sign our letter. Senator Charles Percy remarked that he couldn't control his own family, much less his own interns, and that students should be able to express their views publicly.

Ultimately, we gathered 179 signatures. I called the White House to ask if we could present our petition to the President. Instead of agreeing to an exchange of views, however, the President opted for punishment. Later that summer he canceled his traditional summer address to Congressional interns at the Washington Monument. The House followed suit: in the fall it voted to suspend the intern program. (It was reinstated three years later.)

Although the intern letter's most immediate result was to end not the war but the intern program, it did demonstrate that students could take a collective stand and command attention. That little letter was one more pebble in a rockslide that years later forced bellicose policy makers to abandon their miserable war. And though I've had many failures and successes in the past decade as a public interest lawyer, and though it's occasionally hard to recall whom I had lunch with last week, I can remember as if it were yesterday that summer when several uppity interns, armed only with chutzpah and passion, were able to jar both the President and Congress on the greatest issue of the era.

After I described this experience to 500 Congressional interns in early August, history repeated itself. Many of today's college students, like those of us in 1967, feel personally threatened by the prospects of a growing conflict and increasing U.S. intervention in Central America. So, led by interns from the office of Representative Mike Lowry of Washington and Representative Mo Udall of Arizona, forty of them held frequent meetings to draft a protest letter to President Reagan.

Their sessions evolved into an informal debating society and study group, which for several weeks delved into U.S. policy in Central America. "It was pure hell getting this statement put together," according to Jonathon Oleisky, an intern in Udall's office, "because it was just like a bunch of congressmen in committee—nobody wanted to come out looking like a schmuck."

In the end, they produced a careful, powerful document, which read in part:

> We believe your Administration's actions stem partly from a misguided perception of events in Central America as little more than an outgrowth of the international competition between the U.S. and the Soviet Union. This overemphasis on Soviet influence in Latin America diverts attention from the history of political and economic oppression which is the principal cause of the current unrest.

Organized by Clayton Lewis, who is now coordinating statewide phone banks for the Senate campaign of his summer boss, Representative Lowry, this "Gang of 40" set out to spread its message. They papered every House office with their statement and assigned floor captains to speak with all interns; within a week they had 350 signatures, representing virtually every state and both parties.

When members of the group tried to gather signatures at a Library of Congress intern seminar, they triggered the same old chain reaction of official Washington. The library guards threw them out, and then the chief counsel to the House Administration Committee called an aide to Lowry and told him the interns should stop their campaign. Instead, Lowry entered their statement in the *Congressional Record*, and *The Washington Post* ran the story.

These rebels with a cause then did what only kids raised on a steady diet of *Eyewitness News* and *Nightline* would do—they called a press conference at the east gate of the White House. When Reagan's Director of Congressional Correspondence, Charley Ponticelli, broke her word and failed to receive the petitions at the gate, the interns resolutely held their ground.

Clayton Lewis stepped before the cameras and presented the group's demands:

§ No U.S. military aid to Central America

§ No covert action against Nicaragua

§ Adherence to internationally recognized standards of human rights

§ Extended voluntary departure status for all Salvadoran refugees in the United States

§ U.S. backing for the peace initiatives of the Contadora group.

The White House offered to admit one spokesperson to hand over the statement, but the interns resisted the bait. As Oleisky explains, sounding more like a seasoned Hill & Knowlton consultant than the 16-year-old that he is, "The White House suggestion would have taken away our whole media angle." So individual interns, each representing a region of the country, stepped up to the White House gate and placed a petition at the door of executive power. The Secret Service guards then threw the petitions in the trash. (When interns supporting the President's policy on Central America mailed a petition to the White House, they were lauded for their "orderly" conduct, for following the "proper process" and for not inviting the media to a demonstration.)

Like me, the rebels of 1983 returned home having fully succeeded as Congressional interns, though not by playing by the rules. They made, if not waves, at least a splash. They reminded cynical commentators that the spirit of student activism, beginning with black sit-ins at Greensboro lunch-

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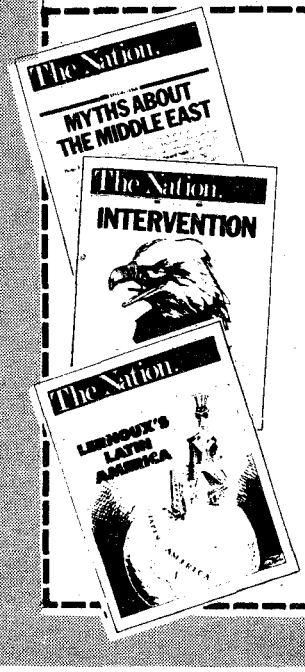

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counters in the 1950s and cresting with antiwar rallies in the early 1970s, has not been eclipsed by student "free enterprise" (à la *Risky Business*). And they developed organizing skills for the next round of activism to restrain Reagan. Lewis, for example, speaks of his plans to use his list of rebel interns to form a student network, sharing news and ideas in a quarterly newsletter about campus activism. Finally, a Jonathon Oleisky or a Clayton Lewis may well call upon a new generation of summer interns in 1999 to continue the sixteen-year cycle of protest over Presidential military intervention. □

WHERE FLIGHT 7 FLEW

Tensions in the North Pacific

WALDEN BELLO AND PETER HAYES

"This region, I believe, is most probably where we shall witness confrontation with the Soviet Union," Adm. Robert Long, then chief of the U.S. Pacific Command, told a Japanese reporter a few months ago. In the aftermath of the September 1 downing of a South Korean commercial airliner by a Soviet fighter, Long's words have taken on an unintended immediacy.

Northeast Asia, where the tragic incident occurred, is one of the world's most militarized areas. Soviet and U.S. forces there are in a state of tense confrontation. The South Korean plane flew close to the Soviet naval base at Petropavlovsk, on the Kamchatka Peninsula, home port for the Northwest Pacific nuclear-missile submarine fleet. It was shot down over Sakhalin Island, site of several important Soviet communications and aircraft facilities, after allegedly being mistaken for an American RC-135 spy plane.

In recent years both the Soviet Union and the United States have engaged in major military buildups in the area. The Russians have deployed about one-third of their 250 SS-20 theater nuclear missiles and the same proportion of their new long-range Backfire bombers. According to Adm. Nataoishi Sakonjo of Japan, an expert on defense policy in the region, Soviet missiles and aircraft are deployed primarily for use in the event of a ground war with the People's Republic of China. Reagan Administration propaganda to the contrary notwithstanding, their purpose appears to be largely defensive.

Walden Bello is an associate of the Southeast Asia Resource Center, based in Berkeley, California. Peter Hayes, an energy consultant, is principal researcher for Nautilus Research, based in Amherst, Massachusetts. This article is excerpted from "Pacific Command," a study prepared for the Nuclear-Free Pacific Conference held in the island republic of Vanuatu in early July.

Perhaps the most accurate assessment of the balance of forces in Northeast Asia was provided by former Defense Secretary Harold Brown, who wrote in his recently published *Thinking About National Security* that the U.S.-Japan-China alliance "must truly be a nightmare to the Soviets, and the modest cooperative steps [taken by the three nations from] 1975-80 have . . . tilted the politico-military balance against the Soviets to a degree that significantly exceeds the advantages accruing to them from their substantial build-up in the region during the late 1960's and 1970's."

Indeed, over the past three years, the Reagan Administration's arms escalation has been the prime cause of instability in the region. The thrust of the Pentagon's strategy is to pit the Navy, the only U.S. service that enjoys clear-cut superiority over its Soviet counterpart, against the Soviet fleet in an area where the Russians are geographically highly vulnerable.

The United States now periodically deploys several aircraft carrier task forces in the area; before this Administration, only a single carrier task force was assigned to it. U.S. battle groups hold regular exercises in the Northwest Pacific just off the Sea of Okhotsk and in the Sea of Japan. The Seventh Fleet, which patrols the western Pacific and the Indian Ocean, is stronger than it has been in years, having been augmented by the battleship New Jersey (temporarily on gunboat diplomacy duty off Central America), which has been refitted with cruise missiles, and by America's newest nuclear-powered carrier, the 90,000-ton Carl Vinson. The ships of the U.S. Pacific Command, which includes those of the Third Fleet in the eastern Pacific, now make up almost half the Navy's forces.

The Navy's moves cannot be divorced from its longstanding obsession with outstripping the "upstart" Soviet fleet under Adm. Sergei Gorshkov. During the years immediately after the Vietnam War, the Navy's expansion plans were frustrated by a popular mood of antimilitarism, budgetary constraints and skepticism on the part of civilian authorities. But when Ronald Reagan, a longtime favorite of the service, became President, the Navy's views became policy.

The harmony between the Navy brass and the Administration has produced the "Lehman Doctrine," named after Secretary of the Navy John Lehman, a former consultant to Boeing and a member of the Navy Reserve, who has called for the "achievement of outright maritime supremacy." In order to attain that goal, the Navy will expand to a 600-ship fleet, including fifteen aircraft carriers and four recommissioned World War II battleships armed with cruise missiles. To make the Soviet Union an "isolated island," as Lehman put it, the Navy's primary mission has been shifted from a defensive one of protecting vital sea lanes to an offensive one of "force projection" against the Soviet fleet and Soviet coastal targets [see James A. Nathan, "Return of the Great White Fleet," *The Nation*, March 5].

By increasing its presence in the home waters of the Soviet Pacific fleet, the Navy hopes to dissuade the Russian naval command from sending substantial task forces out of port, enabling the U.S. fleet to exercise unchallenged control over the Pacific and Indian Oceans.

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The strategy of confrontation is, of course, backed up by contingency plans for dealing with any "incidents" that occur in the area. Such incidents are an ever-present possibility in the Northwest Pacific, where the two opposing fleets boldly venture into each other's training maneuvers.

Under U.S. naval doctrine, it is preferable to outmaneuver and overwhelm the enemy in one location than to fight it all over the high seas. Such a strategy gives the United States the edge in the Pacific: the Soviet fleet's main area of operation is the almost landlocked Sea of Japan, where its maneuverability is limited. The five narrow straits that lead to the open Pacific can be easily mined, blockaded or bombed. U.S. battle groups, by contrast, have the immense advantage of operating in the open seas, supported by land-based aircraft launched from Japan and South Korea. As the Joint Chiefs of Staff point out in their last "defense posture" statement, a major U.S. "advantage is the ability of American forces—including those in Japan and Korea—to bottle up the Soviets' Pacific fleet at Vladivostok."

What Harold Brown calls the Russians' strategic "nightmare" would become reality in a battle in the Sea of Japan or the Sea of Okhotsk. Two U.S. carrier battle groups assigned to the Seventh Fleet would be arrayed against only one small Soviet carrier, which is designed for antisubmarine warfare, in the Northwest Pacific, forcing the Russians to rely on cruise-missile firing ships, submarines and land-based aircraft.

The Seventh Fleet and the Air Force and Marine air units based in Japan and South Korea have about 440 aircraft available for use in offensive operations against the Russians. When the U.S.-equipped air forces of Japan and South Korea are included, the balance of power tips against the Russians. Even though they enjoy numerical superiority, their planes are inferior to those of the United States. The Bear heavy bomber, boasts one American admiral, "would not get within 1,000 miles" of a U.S. battle group. It is unlikely that the long-range Backfire bombers would be able to penetrate the screen of U.S. interceptors and fighter-bombers. And the Russians have nothing to match the *enfant terrible* of the U.S. offensive force: the ultramodern F-16, which is capable of carrying nuclear weapons. A squadron of F-16s is now based in South Korea, and another will soon be deployed in Misawa, in northern Japan.

In short, the Soviet Pacific fleet would get little help from air power, which is the decisive factor in modern naval conflicts. The two other tactical arms of the Soviet fleet—its missile-firing surface ships and its submarines—would have to break through the mined or blockaded straits leading out of the Sea of Japan, and the noisy Soviet submarines would have to contend with U.S. antisubmarine forces, which a former Navy Secretary has described as "awesome."

To support its independent capabilities, the United States is strengthening its military alliances with Japan, South Korea and China:

§ The United States and Japan have planned joint twenty-four-hour patrols in three of the straits leading out of the

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No rustle.
Not a lip
stirs in the town square,
the park frozen
in mid-Siesta . . . The horse-drawn buggies
are parked in roadside stalls, their drivers curled
in front seat corners
like snails; long horse necks drooped

between traces,
in stupor, or
quiet munchings of hay.
Thick manes wag
in the breeze, while snuffles punctuate
the masters' snores: a mixed chorus of sleep drone
and gap-toothed slow hay
mastications . . . The buses, fire engines,

ambulancias,
and tractors—
all parked at odd angles—
straddle lanes
half-on, half-off the highway. Dormant
at the foot of park statues (military sculptures:
pistols aimed, swords
drawn, or crouched beside cannons),

the hodgepodge
fleet of trucks lies
sprawled. They strike poses
of slain dragons
or disabled war tanks: front or rear axle
swung over low hedge, one wheel propped on high curb,
or athwart boulder;
whole garbage truck-back chassis

atilt. Cement
truck's bumper
near-submerged in the park
fountain. Loaded
banana trailer and sugar-cane trailer
sandwich the cab of giant diesel semi (its three-
story-high fortress
towering over the sunburst

cornucopias
of fruit and cane),
dislodged from its massive
chrome-silver
torpedo: close facsimile of an Inter-
Continental Ballistic Missile! The twenty-four-wheel
oil rig tanker
floats in a field opposite

the plaza square . . .
Many drivers' doors—
above, below—slant ajar:
a few doors,
swivelling on their hinges, gently sway
in the wind; others anchored by legs poking upwards
through windows, feet
shoeless, sock-bedraggled or bare. . . .

Laurence Lieberman

Sea of Japan, and Japan has promised to join the United States in mining or blockading those "choke points" in the event of war.

§ To place North Korea, a Soviet ally, on the defensive, the United States has upgraded South Korea's defense status to the equivalent of the European theater's—that is, from a "significant interest area" to a "vital interest area"—and has indicated its intention to deploy neutron bombs on the Korean peninsula. The Pentagon has advocated linking the United States to Japan and South Korea in a "triangular alliance," which would permit military operations that are not possible under present bilateral pacts—for example, the mining of the strategically important Tsushima Strait.

§ The United States is integrating China into its war plans. In addition to urging a "continuing program of military-to-military contacts and prudent assistance in defensive weaponry," Defense Secretary Caspar Weinberger's "Defense Guidance" for 1985-89 calls for U.S. "logistical support" for "Chinese military maneuvers to tie down the Soviets' Pacific Fleet, tactical air squadrons, and its approximately 50 army divisions on the Sino-Soviet border" in the event of war.

Those initiatives have brought tensions in the area to flash point. The Navy brass's desire to put Admiral Gorshkov in his place and the Reagan Administration's ill-disguised belief in the feasibility of a "limited war" could prove to be an explosive combination.

The destabilizing effect of the limited-war doctrine that guides contingency planning at the Pentagon should not be discounted. As then-Assistant Secretary of Defense for International Security Affairs Francis West put it last year in Congressional hearings on "seapower projection":

> A strategy of global flexibility does not necessarily mean simultaneous, intense conflict worldwide. Quite the opposite. It means assessing the opponent's strength on the entire global chessboard, assessing the capabilities of theater criticalities, and assigning moves and countermoves designed to terminate the conflict speedily and with minimum escalation, while protecting the interests of the United States and its allies.

West based that strategy on the assumption that the Soviet Union "is a mature global superpower in the 1980s." The problem, of course, is that the Russians have stated time and again that a limited war—either conventional or nuclear—with the United States is not possible. It would quickly escalate to global war. Moreover, the lessons of the 1905 Battle of Tsushima, when the Czar's Baltic fleet went down before the guns of the imperial Japanese Navy in the strait, which leads into the Sea of Japan, are deeply ingrained in the minds of Soviet commanders.

It is important to place the shooting down of the South Korean passenger plane in the context of the rapid escalation of the arms race, largely promoted by the United States, in the Northeast Asia-Northwest Pacific region. Perhaps that tragic affair will serve to draw public attention to the buildup and provoke second thoughts in the Pentagon and the Navy among the adherents of pre-emptive strikes and limited war. □

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BOOKS & THE ARTS.

Our Unhealthy Health Care

ARTHUR L. CAPLAN

There has been a peculiar shift in the roles of the left and the right on the subject of health care in recent years. In the 1960s and early 1970s the left saw its role as that of critically thinking and arguing about various policies for the funding of health care. That in turn defined the sum and substance of right-wing thought about health care—mindless opposition to any and all new ideas.

Today those roles have reversed. The President and his confrères have the ideas, from health maintenance organizations to capping hospital costs to making the Presidential helicopter available for those in need of liver transplants, while left-liberal views on health care seem to consist primarily in saying no to nuclear war; no to the MX missile, B-1 bomber and their ilk; no to intervention in the Third World. If that advice is heeded, one gathers, billions more dollars will be available for improving the health of the nation. For the price of one nuclear-powered aircraft carrier, so the naysaying goes, health care could be supplied to thousands of poor, nutritionally deprived pregnant women.

Yet, after all the harrumphing is done, what concrete, coherent health care policies does the left have on which to spend the money now lavished on the Pentagon? Since, as each of the books under discussion demonstrates, modern medical care is enormously expensive, often of arguable benefit to those who receive it, alienating to the majority of people who come in contact with its practitioners and plagued by mismanagement, inefficiency and waste, the promise of equitable access is hardly the sort of trumpet call that will send people to the polls, much less to the barricades. Moreover, as Paul Starr and Thomas H. Ainsworth both note, the vast majority of Americans already have easy access to a wide variety of medical care, through employment-based insurance plans, Medicare or Medicaid. True, the patchwork leaves some 20 million people without any form of coverage. True, too, those covered by Medicare and Medicaid get low quality care. Historically, though, the issue of equal care for all has not had great appeal for the well-served majority.

Health care in America today is a major sector of the economy. In 1981, hospitals, private practitioners, pharmaceutical manufacturers and insurance companies provided $287 billion worth of goods and services—10 percent of the G.N.P. Hospital care alone cost $118 billion. In nearly every American city, according to Irving J. Lewis and Cecil G. Sheps in *The Sick Citadel*, there exists at least one major medical center with an annual budget of from $100 million to $200 million. From 1975 to 1979 health care expenditures grew at a rate of 13 percent a year. During the 1980s, according to Victor W. Sidel and Ruth Sidel, the rate has increased to over 15 percent a year.

Books Discussed in This Essay

THE SOCIAL TRANSFORMATION OF AMERICAN MEDICINE. *By Paul Starr. Basic Books. 514 pp. $24.95.*

A ONCE CHARITABLE ENTERPRISE: Hospitals and Health Care in Brooklyn and New York, 1885-1915. *By David Rosner. Cambridge University Press. 288 pp. $29.50.*

A HEALTHY STATE: An International Perspective on the Crisis in United States Medical Care (Revised Edition). *By Victor W. Sidel and Ruth Sidel. Pantheon. 398 pp. $8.95.*

THE SICK CITADEL: The American Academic Medical Center and the Public Interest. *By Irving J. Lewis and Cecil G. Sheps. Oelgeschlager, Gunn & Hain. 277 pp. $25.*

THE SECOND SICKNESS: Contradictions of Capitalist Health Care. *By Howard Waitzkin. The Free Press. 282 pp. $19.95.*

LIVE OR DIE. *By Thomas H. Ainsworth, M.D. Macmillan. 256 pp. $13.95.*

The key question for left-liberals is whether Americans are getting their money's worth. The Sidels and Howard Waitzkin think not. Both *A Healthy State* and *The Second Sickness* note that the United States still trails behind some comparably wealthy nations with respect to life expectancy and infant mortality. Hospitals and medical resources are still maldistributed among and within all fifty states. The number of children immunized against serious diseases such as polio, diphtheria and whooping cough has shown a steady decline over the past ten years. Preventable illness and preventable death caused by industrial accidents, environmental toxins, smoking, automobile accidents and alcohol abuse continue to receive little attention from the medical establishment. Expensive technology, such as cardiac care units and nuclear magnetic resonance scanners, continues to percolate through the health care system without systematic evaluation as to its efficacy or safety.

On the other hand, as all these authors note, for the middle and upper classes—who make up between one-third and one-half the population—there is a great deal that is right with American health care. The sophistication of the medicine practiced at our leading hospitals and university medical centers is the envy of the world. Even the Sidels, staunch advocates of the "barefoot doctor" concept of the Chinese Cultural Revolution, sheepishly admit in their updated edition that today the Chinese are eagerly seeking to introduce Western medical practices into their hospitals. The basic fact of political life is that, if you or a member of your family holds a full-time job you are likely to have some form of medical insurance. Since, in spite of President Reagan's best efforts, the majority of Americans are still employed, the majority of Americans have access to reasonably adequate if not always quality care. What that fact does not explain is why it takes 10 percent of the G.N.P. to produce that level of care. Nor does it explain why the vast majority of Americans still feel vaguely (or concretely, if malpractice rates are any indication) dissatisfied with it. Perhaps it is because American medicine is much better at treating illness than it is at preventing it. The insured sick receive excellent care; the potentially sick and the uninsured do not.

The price Americans pay is too high

Arthur L. Caplan is Associate for the Humanities at the Hastings Center.

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for what is provided. There is too much inequity, too much insecurity (as the recent recession clearly revealed) and too much inefficiency for anyone to be complacent about his or her health. Moreover, thanks to the efforts of these writers, there is too much material available to excuse myopia or naïveté about health policy from any political perspective.

To figure out how the present system of health care might be improved, one needs to understand how it came into existence. David Rosner and Paul Starr have taken different but equally rewarding routes toward an explanation. Both are puzzled by two basic realities of American medicine: the professional authority (or "sovereignty" to use Starr's term) that medicine has in our society and the persistence of a fee-for-service system of covering medical costs when every other developed nation on the planet has either national health insurance or nationalized health care.

A Once Charitable Enterprise attempts to explain these two peculiar aspects of American medicine by examining in microscopic detail the hospital systems of Manhattan and Brooklyn at the turn of the century. After the Civil War, the medical system of the New York area was built around small neighborhood hospitals and dispensaries. The care they provided was based upon charity for the poor, for whose health the merchant classes of the city felt morally responsible. They also considered themselves responsible for the spiritual and ethical improvement of the poor, who while hospitalized were expected to pray regularly and proclaim their eagerness to change their sinful ways. The vast majority of New Yorkers, however, were not poor enough for charity; when ill, they cared for themselves in their own homes or called upon the services of one of the many private neighborhood practitioners of medicine, homeopathy or other methods of healing.

All that changed drastically over the next forty years. By 1920, the hospital had been transformed from a charitable, paternalistic institution into a carefully class-segregated, commercial enterprise. The neighborhood practitioner had moved out of the heavily industrialized sections along the East River to the prosperous calm of Bedford, Park Slope and "Pill Hill," today's Crown Heights. More important, the locus of medical practice had shifted from the home or private office to the hospital. The small local hospital and community dispensary were slowly being displaced by the large, university-affiliated conglomerates which dominate the urban medical arena to this day.

The standard explanation for this revolution in medical care is scientific progress. With the invention of anesthesia, surgery was no longer a civilized exercise in torture. The development of the germ theory of disease facilitated advances in antisepsis and asepsis which further improved the likelihood of favorable outcomes. Moreover, charity tied to the reform of character was difficult to square with a bacteriological outlook on the causes of disease. According to most historians, the march of science drove the small dispensary and the private practitioner out of business or into the teaching hospital.

While Rosner politely acknowledges scientific progress as a factor in transforming the medical system of New York, his enthusiasms are clearly elsewhere. Immigration, urbanization, industrialization and the economy, he argues, had far more impact than did the discovery of germs. Through the meticulous use of hospital and public records, he shows that the transition of the hospital from almshouse to business was well underway prior to the introduction of modern surgical techniques.

During the late nineteenth century, immigration transformed the traditional neighborhoods of Manhattan and Brooklyn. A kind of "white flight" saw many of the wealthy move to the suburbs, leaving the neighborhood hospitals and dispensaries of the crowded inner city with few rich benefactors. The severe depression of the 1890s further hurt the financial base of the small dispensary. Philanthropy, then as now, was reliable in good times but left the indigent and dependent in the lurch when times were hard. To keep their doors open, charitable institutions began to aggressively pursue paying customers, advertising themselves in newspapers and magazines as "hotels for the ill," complete with maid service and fine china.

That strategy quickly brought hospitals into conflict with private physicians, themselves hard pressed to maintain their patient pool in the difficult economic climate. Driven by the currents of urbanization and economic necessity, physicians began to organize themselves both to counteract the marketing efforts of hospitals and dispensaries and to drive out competitors from their own backyard by instituting stricter educational and licensing requirements. In the end, the stronger hospitals and the private physicians reached a kind of détente. The small dispensary was slowly choked to death through a combination of manpower shortages, effective political lobbying to discourage public funding, and laws requiring a means test of anyone who utilized a dispensary or hospital as a charity case. The fear of welfare fraud was as rampant among physicians and for-profit hospitals in 1900 as it is today among the foes of Medicaid and Medicare.

Hospitals realized that if they were to overcome the longstanding social stigma attached to receiving care in a charitable institution, they would need the cooperation of private physicians, who controlled access to paying patients. In order to survive, hospitals began to allow doctors to treat their patients on the premises and to take a share of the fees.

The resulting organizational arrangements permeate medical care to this day: the separation of hospital floors into wards for welfare cases and private rooms for paying patients, the disappearance of the small community-based health clinic, the introduction of fee-splitting between hospital and doctor. One might fault Rosner for not spending enough time bemoaning the moral officiousness that characterized charity-based medical care. He has certainly done his homework, though, and anyone interested in the high cost of contemporary health care can learn a great deal about its organizational causes from his book.

Paul Starr's massive *The Social Transformation of American Medicine* is panoramic rather than microscopic, but it sounds many of the same themes. Medical advances alone, Starr argues, are not sufficient to account for the present state of medical organization. If they were, those nations that have benefited from such advances would have similar ways of delivering health care. But this is far from true: there is a wide diversity of professional relationships, institutional arrangements and insurance schemes among Western health care systems. Starr, like Rosner, looks to social context and historical contingency to explain the American system—or lack of one. Unlike Waitzkin, who tends to explain every aspect of American medical care as the inevitable outcome of industrial capitalism, Starr looks to culture, demographics, ethnici-

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ty and class to explain the rise of American medicine from a group of competing sects to a tremendously powerful profession. Indeed, in Starr's view the most amazing fact about the medical profession in America is that, through a series of extraordinary political gyrations and accommodations, it has until now been able to escape the clutches of the corporation.

The medical scene prior to the Civil War was a swirling maelstrom of self-care, family care, herbalists, faith healers, quacks, nostrum peddlers and physicians—some medical school graduates, most not. Americans viewed most claims to authority or expertise with skepticism, including those of medical practitioners. This distaste for elites combined with poor systems of transportation and communication to keep medical autonomy in check.

After the war, things changed quickly. Transportation and communication improved dramatically. Medical schools poured thousands of new graduates into the marketplace. The various medical sects and groups in practice began to be attracted to the scientific medicine emanating from Europe. Perhaps most important, in Starr's view, the contending parties in the field of medicine reached an accommodation. The various sectarians and the orthodox practitioners began to formulate standardized criteria for licensing. Rather than compete, the medical professionals absorbed, thereby laying the grounds for a powerful intraprofessional agreement about who could and could not practice medicine. Having achieved licensing, the once fragmented field quickly moved on to establish common requirements for training. By presenting a solid front against the rest of society, physicians were able to lobby for control over dispensing medications, persuade the average citizen of the complexity of medical knowledge, utilize the many new diagnostic technologies of the time, such as X-rays and spirometry, and assume the role of gatekeeper to health in a society increasingly concerned with social classification in its schools, armed forces and factories.

Starr's account of physicians' rise to cultural authority in America is the best explanation available to date on an intriguing subject. Nevertheless, there are some important elements missing from his analysis.

We are told little about the values, beliefs, mores and worries of the immigrants coming to America in the late nineteenth century. Obviously, for this group of citizens, the days of the rugged, self-reliant frontiersman had little relevance or meaning. As Rosner notes, they were more dependent than any previous generation of Americans upon the good offices of the rich for their welfare. They may have brought with them new attitudes about the professions in general and medicine in particular. Certainly they brought with them—and evoked in those already living here—a keener sense of social class than had ever existed among Americans. Since medical practice was concentrated in the large cities of the East Coast, the cultural authority of medicine may have grown in part as a consequence of the attitudes, mores and needs of the immigrants.

Unfortunately, it is difficult to evaluate the role of different social factors in the rise of medicine in America. For, as Starr's book inadvertently reveals, large portions of the story are simply absent from the standard historical sources. All that historians of medicine have to draw on directly are public records and published statements by various authorities. The voices of patients, of their families, of the nurses, ambulance drivers, janitors and all the other ancillary personnel who make up the social milieu of medicine are not much in evidence here. Thus, we do not know how things looked from either the consumer's point of view or that of the caregiver at the bedside. Ironically, Starr is dependent for all his details on the cultural authorities he is trying to explain. He deserves credit for correctly demarcating the parameters of the problem and for realizing the uniqueness of the American experience with medicine, but his failure to make more imaginative use of alternative sources—fiction, autobiography, diaries, popular tradition—restricts the kind of picture that he can construct.

Happily, that situation does not prevail with respect to the other great problem Starr sets out to solve: why the United States failed to develop any form of national health insurance. Starr notes that a number of times during the twentieth century, America was on the brink of approving a national health insurance program. However, factors unique to the political conditions and social institutions of America prevented the adoption of policies that swept through Europe in the early 1900s.

At the beginning of the century the U.S. government, unlike those of Europe, was highly decentralized, played

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no regulatory role in social welfare and had a small and unprofessional civil service. American labor unions, unlike their European counterparts, had no history of class solidarity to draw on, since workers were divided by race, language, religion and ethnic background. Whereas much social welfare legislation was passed in Europe to placate unruly and even rebellious workers, labor unrest in America never achieved a comparable level of discomfort for either government or business.

Throughout the early part of the century, American business and labor found it in their mutual interest to fight progressive reformers and even the American Medical Association over the passage of national health insurance legislation. Starr's analysis of the politics involved in that battle is the highlight of his book.

He makes it clear that, from labor's point of view, national health insurance represented a direct threat to the fragile sense of unity that held together the nascent labor movement. The A.F.L. fought against it and other forms of Federal social welfare on the ground that workers were best served by relying on their own economic power to provide for their needs. Unions would collapse, labor feared, unless they—and not the government—were the focus of social benefits and protections such as health insurance. Organized labor sought to provide those benefits as a way to foster unity among workers.

Business was more than happy to comply. Most industries could not see the value of a Federal national health insurance program. The costs would not produce any immediate benefits in terms of efficiency. Some industrial leaders worried that national health insurance might foster malingering and laziness among workers. The powerful alliance of labor and management was able to tie health insurance to union contracts—a pattern of reimbursement that still plays a key role today.

Starr describes two other periods in which national health insurance nearly became public policy. At the end of the 1930s, health insurance proposals began to proliferate as part of Roosevelt's New Deal. However, they had to contend with the strident opposition of the A.M.A., which had quickly lost its taste for a Federal role in the payment of medical bills, and with the organized resistance of powerful commercial health insurance firms. Health insurance also became a political football as various New Deal agencies vied for funding priority. The political pressures for old-age pensions and unemployment insurance were simply greater than those for health insurance.

After World War II, President Truman took up the banner of national health insurance. By that time, most of the upper and middle classes, as well as unionized workers, were covered by either private insurance or employee benefit packages. With the boom of the postwar economy, national health insurance was envisioned as a program that would guarantee access for those denied medical care as a result of unemployment or poverty. Fearful of losing the lucrative arrangements with private insurers that were skyrocketing physicians' personal incomes, the A.M.A. set out to smash this version of national health insurance by equating it with socialized medicine and, thus, communism. The Red-scare tactics worked, and again national health insurance foundered on the rocks of private interest.

Starr thinks the old alliances and vested interests are rapidly changing, thanks to the lure of economies of scale, an oversupply of doctors and the need for ever greater amounts of capital to invest in increasingly expensive medical technology. Today more and more hospitals are being acquired by corporate chains—they now own approximately 30 percent of the nation's community hospital beds—and more and more doctors find themselves working for a salary rather than for a fee. The small community hospital is going the way of the small community dispensary of a hundred years ago, as control moves from the private office and local hospital room to distant board rooms. The decades-long dependence of hospitals on private physicians has been reversed in the 1980s: physicians cannot survive without hospitals and their technology.

The Reagan Administration's response to the corporatization of American medicine has been mixed. Corporate sensitivities to the bottom line have done little to rein in rising health care

REFLECTIONS ON A BOWL OF KUMQUATS, 1936

The exemplar of the "fight to the finish,"
the calculating squint and the surreptitious kick
to the shin; the juggler with billiard balls
and oranges, interchangeable in a blur—
like Life&Death at the heart of the farce:
bite into the wrong thing in the dark and watch
the teeth fly like sparks, everybody laughing . . .
Sly, slyer than cats and lady druggists,
more familiar than house dicks with the bright evil
gritted into the fabric of things, of "everyday life,"
so many places to avoid, and dreams,
the man in the four-way mirror outflanking his insomnia,
pockets stuffed with bankbooks,
closely-shaven even at 2 a.m. . . .
Let double-talk patch the air while oceans roar,
a crazyquilt of insults and anxious asides,
only the children, who threatened him, equipped
to read the barometer of that face,
the short degrees between spite and rage,
degrees of applause and betrayal,
of the dinginess of rooms, of the years
notched like casualties on traveling trunks . . .
Now see the sun setting behind the palms,
see the weedless lawn and the Florentine fountain,
see the clay court steaming through the vines,
see Hollywood to the north dirty and pink;
tailored in white with rakish Panama, chewed Corona,
the nimble fat man sips gin from a halved tennis ball,
shows the vicious backhand patented for laughs, for winning.
Only the stray dogs at the gate can appreciate that.
Never give a sucker an even break.

Nicholas Christopher

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costs. The phenomenal costs incurred by the government-sponsored End-Stage Renal Disease Program, which last year amounted to over $2 billion for the treatment of 60,000 individuals primarily in for-profit dialysis centers, has led to some efforts to control costs by touting the value of H.M.O.s. At the same time, regulations on hospital expansion and expensive hospital equipment are being systematically dismantled. There is some talk in Congress about the need to institute "catastrophic" health insurance to cover such rare medical events as organ transplantation or the implantation of an artificial heart. The Democrats are finally making noises about the need to institute health insurance for the unemployed—an idea anyone who has read Starr's book would recognize as being about sixty years overdue. Access for the unemployed and coverage for the medically unlucky are not, however, policies that address themselves to the real health policy issue of the 1980s: Can the government guarantee quality care to all at a reasonable cost?

Sprinkled throughout the books under discussion here are numerous suggestions as to how that might be accomplished. There is no point in throwing money into a system that is not efficient and is likely to become less so as corporate interests begin to intrude further into medical decision making. Organizational and structural changes must go hand in hand with concerns for access if a health care policy is to be developed that can serve the best interests of all Americans—rich and poor, consumers and providers.

Lewis and Sheps make a number of positive suggestions about the role that large teaching hospital/university complexes could play. Academic medical centers, they argue, must begin to emphasize health promotion in the training of new physicians and other health care workers. Moreover, the medical school curriculum must be redesigned to give more attention to the health needs of the poor and underprivileged, who consume a disproportionate share of medical resources. Academic centers must also rethink the commitment they have made to medical specialization. The number of specialists produced each year in surgery and cardiology, for instance, far exceeds any reasonable estimate of need.

That last reform would lead to a fundamental shift in the organization of medical practice, one strongly suggested by both the Sidels and Waitzkin. The freedom to see a specialist at will may no longer be something this society can afford. In England, specialist care is given only upon referral by a general practitioner. Allowing direct access to specialists for any and all complaints has led to a staggering number of unnecessary diagnostic tests, wasteful medical procedures, an oversupply of overtrained physicians and an undersupply of family practitioners and G.P.s who could handle ordinary day-to-day medical needs. If private insurers, the Federal government and all other third-party payers could move to a system of access to specialists only by referral, we might have the first step toward restraining the spiraling costs of medical care. If those making the referrals included G.P.s, family practitioners, nurses, emergency room specialists and, perhaps, internists, it might even be possible to build some enthusiasm for the plan among American doctors.

Ainsworth notes another area in which freedom and autonomy are being purchased at enormous cost—medical innovation. Historically, physicians have been completely free to introduce new forms of surgery, new types of technology and new therapeutic practices into their clinical practices. But cardiac care units, neonatal intensive care units, CAT scanners, PET scanners and the rest of the modern medical armamentarium are a far cry from the stethoscope. The technological possibilities confronting physicians and patients seem endless, and yet the Federal government currently plays no role in technology development and assessment beyond that of forking up billions for basic research. It can take years to discover that heart attack victims do as well recovering in ordinary hospital beds as they do in cardiac care units, or that the surgical treatment of coronary artery disease is no more effective than treatment with medication and modifications in lifestyle. The Federal government must extricate itself from the role of venture capitalist and begin regulating technology. It would not hurt for the government to build into research grants a provision or two that would allow it to gain a percentage return on successful medical technologies—such as the soon-to-appear insulin pump for diabetics—which have been developed at public expense but are then patented and marketed by private concerns.

All of these authors are sympathetic to compensating doctors through salaries rather than fees. However, unless

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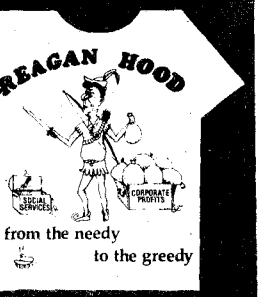

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SOVIET FOREIGN POLICY
The Brezhnev Years
ROBIN EDMONDS

Everyone in the world today is affected by the direction of Soviet foreign policy. In the eighteen years of Leonid Brezhnev's leadership the U.S.S.R. became a superpower; Robin Edmonds, a former Minister at the British Embassy in Moscow, dispassionately records and explains Soviet foreign policy during this period, from the Cuban missile crisis to the crisis in Poland.

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the Federal government gets into the serious business of securing access to health insurance for all, there will be too many inequities in a heavily commercialized system to avoid a two-class system of health care. In the simplest form of involvement, the government would provide benefits that would allow the poor to participate in the various commercial schemes and private health plans that have evolved. We have probably traveled too far down the road of private commercial medical care and insurance to turn back. Previous efforts have met with defeat, and the powerful interests arrayed against any drastic change in the system—business, much of organized labor, hospitals and the upper and middle classes—would surely have no trouble defeating a national health insurance program for a fourth time in this century.

Policy options in health care are many, but they have their limits—as these six books make plain. Taken together, they make an excellent reading list for rekindling public debate about American medical care. Without attention to questions of goals, structure and organization, all the billions now spent on defense would only be misspent. □

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Fast Times in Hoot Owl Holler

PATRICIA VIGDERMAN

ORAL HISTORY. *By Lee Smith. G.P. Putnam's Sons. 286 pp. $14.95.*

The jacket of this novel—Lee Smith's fifth—compares her to Eudora Welty, Flannery O'Connor, Carson McCullers and William Faulkner. A resident of North Carolina, Smith sets her novels in an Appalachian South of inhospitable although beautiful scenery and idiosyncratic inhabitants. Presumably that is the basis of the comparison.

Oral History is the tale of the working out of a family curse, the revenge of a red-haired witch spurned by one Almarine Cantrell. Almarine (b. 1876), is a subsistence farmer, the owner of all of Hoot Owl Holler in the western corner of Virginia, husband of two women, father of seven, stepfather of one, grandfather of at least five and a regional figure to reckon with. The story is told in a series of voices and includes mountain neighbors and citizens of nearby Tug and Black Rock. This is a clever idea for a book, but as the curse makes its way down the generations, managing those voices becomes technically demanding, and by the 1920s Smith's behind-the-scenes labor begins to show. Hillbilly anecdotes researched in the library and sex scenes that seem like writing workshop exercises are grating enough, but the real failure here is the flabbiness of the characters. A major voice in *Oral History* is that of young Richard Burlage, who comes from Richmond to teach school in Tug. His "voice" is his journal, and it suffers from terminal hokeyness.

We learn a great deal about Richard—his class (upper), his position in the family (second son), his education (gentleman's), his temperament (romantic), his historical period (the 1920s)—but he never comes alive. At one point he copies into his journal the whole of Marlowe's "The Passionate Shepherd to His Love." Why? Well, he has fallen in love with Almarine's ravishing eldest daughter, Dory.

Dory is the old standby fictional heroine: the improbably beautiful blonde who simply and naturally enjoys sex and never says what she is thinking. (She's even an old standby for Smith: her resemblance to the heroine of Smith's previous novel, *Black Mountain Breakdown*, is striking.) Here is Richard confiding to his diary his first sight of her:

> Her alabaster face is framed by the finespun gold curls, almost like a frizz, about her head—hair like a Botticelli! Her eyes are a deep, limitless violet. Her lips are red and full. When she smiles, a blush and a dimple grace her smooth fair cheeks. Her rough attire—a dark green wool skirt, brown handmade sweater, tan, nondescript coat—serve only to accentuate the delicacy of her beauty.

This is the stuff of Silhouette romances—and it's a quarter of the book.

Dory falls in love with Richard, although we never find out if his alabaster skin or any other part of his body reminds her of a Botticelli. In due course this free mountain spirit becomes pregnant (this is a family saga, remember). On the eve of his return to his family, Richard throws caution to the winds and writes a note asking her to come back with him.

The note is never delivered. It is intercepted by Dory's ugly stepsister, and Richard goes home alone. Dory marries a nice local fellow and goes on to give birth to many children, including a daughter, Sally.

By this time (the 1960s), there are quite a few members of the family unaccounted for, and we are curious to know how it all comes out. That Sally's lengthy chatter does indeed satisfy this curiosity is perhaps the key to the limits of *Oral History*.

Books like this are the literary equivalent of back-fence gossip, and the fiction shelves of America's libraries are full of them. They give pleasure; they are relatively harmless. They slide over the surface of life and back into the book-return box without leaving a ripple. They are not the kind of books written by Flannery O'Connor or Eudora Welty or even Harper Lee. Those writers are explorers, and the South in their fiction comes to us through imaginations that are on fire.

Smith shares some of their fictional interests—madness, the supernatural, those parts of America passed over by the pioneers when they pressed westward. Rather than lighting up those dark corners with a dangerous light, though, Smith uses them as

Patricia Vigderman is managing editor of Modern Times.

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exotic background for her chitchat.

Everybody has to make a living, and there's clearly a market for this kind of writing. The hype that tries to make Lee Smith the latest addition to the Southern literary pantheon, however, suggests only that once again the dull flint of public relations is clicking away in an empty lighter. □

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KATHA POLLITT

Daniel

The critics have been hard on *Daniel*, Sidney Lumet's adaptation of *The Book of Daniel*, E.L. Doctorow's 1971 novel based on the Rosenberg case. (Doctorow also wrote the screenplay.) Many of the objections are valid. The movie is strangely paced—we're jerked back and forth between the 1930s, when Paul and Rochelle Isaacson meet as young City College Communists, the 1950s, when they are tried and executed as atomic spies, and the late 1960s, when their grown children, Daniel and Susan, try to make sense of their parents' legacy. (Interestingly, Doctorow's "cinematic" crosscuts and collage effects worked better on the page, where they mirrored the frenzied psyche of Daniel, than they do on the screen, where they just seem pointless.) The movie is airlessly intense, with set confrontation following set confrontation, and the theme of Daniel's quest for the truth about his parents is introduced too late to connect them. "How come Daniel becomes a joiner?" one moviegoer asked his date as I was leaving the theater, and although I would have put it differently, I too failed to understand exactly why the apolitical and hostile Daniel suddenly warms toward his wife and joins a peace march. He must have resolved something in the last fifteen minutes of the movie—but what? And when?

I wonder, though, if the critics would have been kinder had the movie's release not coincided with the publication of Ronald Radosh and Joyce Milton's *The Rosenberg File*. The movie doesn't come right out and say that the Isaacsons were harmless victims of a government frame-up—Lumet has said he meant to take no stand on their guilt or innocence—but that's where its emotional heart is, from the nostalgic orange light in which the flashback

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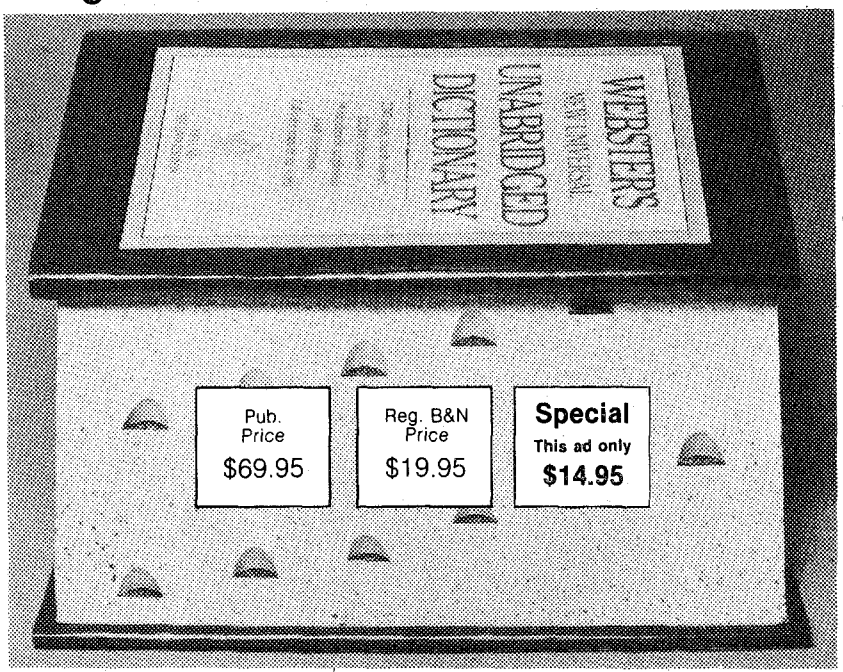

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scenes are shot to the sorrowful nobility of the Paul Robeson songs on the soundtrack. Radosh and Milton think the Rosenbergs were up to something, and a movie that benignly neglects their case is bound to look evasive or worse.

The obvious defense is that *Daniel* is fiction; the problem with that is that the movie wants to have it both ways. The Isaacsons are not the Rosenbergs when history would get in the way of the story, yet the story itself relies for its emotional resonance on the tremendous grief that history still evokes. Leaving aside accusations that *Daniel* alters the facts to make the Isaacsons look virtually incapable of spying—Paul, unlike Julius Rosenberg, is not an engineer, has never been within a thousand miles of a weapons lab and is so unscientifically minded that he looks startled when he succeeds in repairing a radio—there remain uncomfortable questions about the legitimacy of using real people in this way. If it doesn't matter that the Isaacsons both are and are not the Rosenbergs, does it also not matter that Daniel and Susan are and are not Michael and Robert Meeropol, the Rosenbergs' children? In the film, the adult Daniel (Timothy Hutton) and Susan (Amanda Plummer) are seriously warped and rather obnoxious post-adolescents. She spouts Weathermanish clichés, tries to kill herself and dies in a mental hospital. He harangues the audience with pretentious lectures about horrible methods of execution, humiliates his young wife (in the book he does worse—in a scene I'll never forget but wish I could, he burns her buttocks with a cigarette lighter) and is generally a pretty nasty piece of work. That madness and sexual sadism are a natural response to the execution of one's parents always struck me as specious, even when presented in Doctorow's electric prose. Furthermore, it is clear from the Meeropols' own book that they are not crazy or suicidal or vicious. Doesn't that count for anything?

All that being said, *Daniel* deserves better than the righteous jeremiads it's been getting. The *Time* reviewer was so outraged by the notion that the Rosenbergs might have been spies he hardly mentioned the movie at all; Andrew Sarris, in *The Village Voice*, felt the sympathetic portrayal of poor Jewish Communists somehow insulted the memory of his poor Greek conservative parents; Pauline Kael, in *The New Yorker*, accused it of fomenting Jewish paranoia. The interesting thing about all those outbursts is that all the plot elements to which they are pinned were present in the novel, which was welcomed with cheers. (As is usually the case, the novel is yards better than the movie, but I noted a few places where the script makes improvements. Daniel's shouting match with his sister's psychiatrist no longer takes place at a Howard Johnson's, nor is his climactic confrontation with his parents' betrayer, Dr. Mindish the dentist, set in—how obvious can you get?—Disneyland.) But then, 1983 is not 1971.

I spent half of *Daniel* writhing with irritation in my seat. I resented being drilled by Hutton's baby blue eyes as he hectored me about electrocution and knouting and drawing and quartering. I was impatient with the numerous underwritten female parts—Ellen Barkin as Daniel's wife looks hapless and appealing, but since she has ten lines of dialogue tops, it's anybody's guess why she puts up with being her husband's verbal punching bag. Daniel's adoptive mother (Maria Tucci) does little more than flutter nervously during family quarrels while her husband—played by John Rubenstein, who looks half her age—expatiates on the Isaacson case with boyish eagerness. And how on earth could the Isaacson's kindly, incompetent, schlumpy lawyer (Ed Asner) have been married to the witchy millionairess (Carmen Mathews) who appears in one brief scene as his widow? As a former card-carrying member of S.D.S., I even had my own eccentric objection to the movie's politics: how trendy (1971 trendy) to present the Yippie-Weatherman wing of the New Left, which reeked of self-promotion and contempt for ordinary people, as the heir to the sober, in-there-for-a-lifetime, we're-workers-just-like-you commitment of the old left.

The other half of *Daniel*, however, I spent in tears. Lumet's portrait of Grand Concourse socialism has its share of sentimental touches—there's a black whose only purpose is to demonstrate more concern for the Isaacsons' abandoned children than their white neighbors or relatives do, and there is that orange lighting—but it also has some wonderfully evocative moments, as when Paul (Mandy Patinkin, in a performance that begins with tremendous charm but veers off into exhibitionism) uses a box of Wheaties to explain capitalism to little Daniel, or when young Rochelle comes home after a date with

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Paul and fights with her mother bilingually—the older woman moaning and plotzing in Yiddish, her daughter replying in tense, level English.

Except for Hutton, who aims at demonic fury but achieves only brattiness, Lumet has put together an extraordinary cast. As Rochelle, Lindsay Crouse burns with maternal warmth and political intelligence. Two critics have called Rochelle "rigid"—as in "rigid Communist," I guess. That is how hard it is for people to take at face value a portrait of a loving woman who thinks for more than two minutes about something besides her family. Amanda Plummer is heartbreakingly delicate as poor Susan (although I have grim forebodings that she'll be playing madwomen, nuns and rape victims for the rest of her life). Ed Asner is wonderful as the Isaacsons' lawyer. As Dr. Mindish's grown daughter, Linda, Tovah Feldshuh manages to wring humanity out of a snobbish caricature. Linda may be Southern Californian (plastic), a dentist (always comical) and dressed for success (a bitch), but when she tells Daniel proudly that she has had to overcome worse than he—no one cares about the children of stool pigeons—you get the funny feeling that she's right.

Uneven, confused, frenetic—*Daniel* is all of that. Yet it is moving, too—there are those tears to be acknowledged. I know I brought them with me to the theater, and for relying on that Lumet and Doctorow have been more than duly rapped on the knuckles by the critics. I didn't have to shed them once I got there, though—and that point, too, deserves a mention. □

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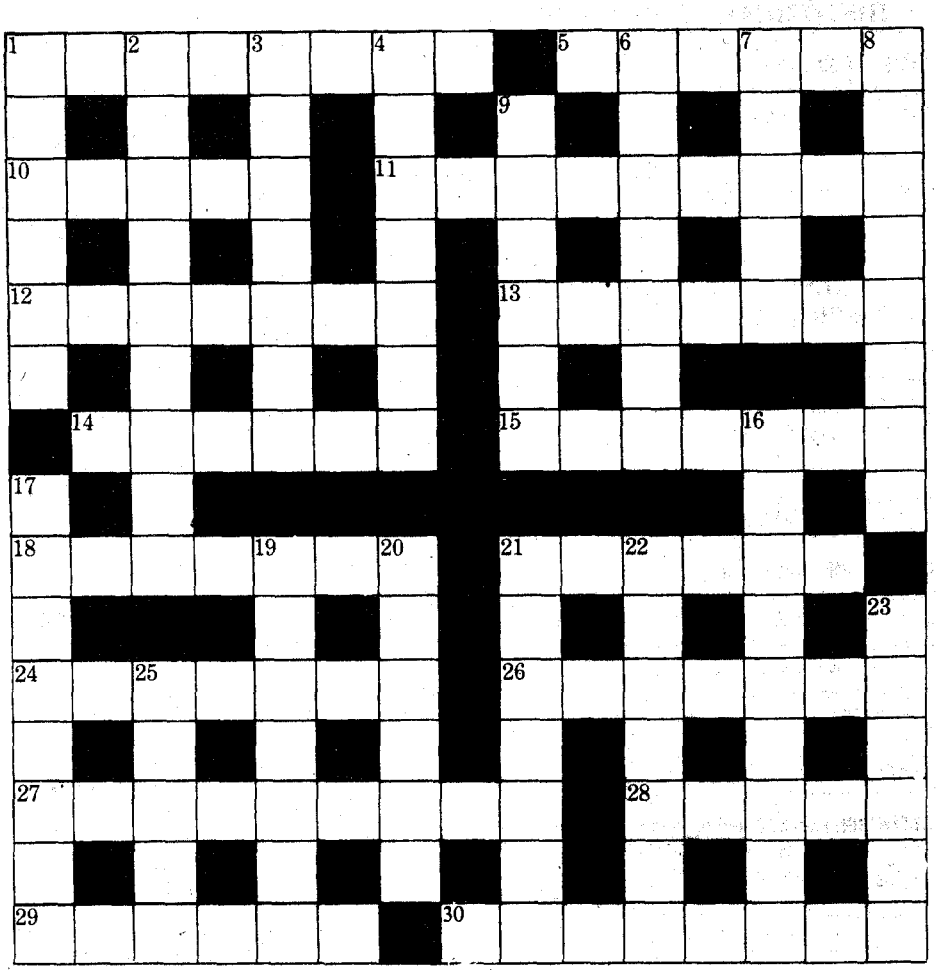

ACROSS

1 What's in the cooker? Art is! (One might be prejudiced, though!) (8)
5 A long piece of writing gives point to one's belief, perhaps. (6)
10 Where one might find beans for the chief. (5)
11 The mechanical apparatus of the backbone in a contrary girl. (9)
12 A rather disreputable animal at or in the museum, perhaps. (7)
13 Boa, butterfly, fish, goose, moth or penguin? (Get a ruler to find what they have in common.) (7)
14 Proving German children are more benevolent. (6)
15 Bring back the old school dance when Hiawatha starts to find what might be in the drugstore. (7)
18 She was his work, but that isn't what makes him wild-looking and careworn. (7)
21 The edge is quiet on both sides—possibly because it's considered such a little thing. (6)
24 One might have a lot to sell, or a genuine eminence. (7)
26 Wrap up, although the wrapper has no point, finally. (7)
27 In exceptional natural capacity there's nothing in it, showing cleverness of invention. (9)
28 Country associated with a plane crash? (5)
29 Cut-lass? No, on the contrary—a common lass to cut and run, if fast. (6)
30 Numbers of egrets in assembly. (8)

DOWN

1 and 17 Charles, for instance, putting on a spell of character for the kiddies. (6,8)
2 and 25 One of Charlie's group looking for a Grammy? (Leigh Hunt had one make an appearance.) (9,5)
3 Does the wrong form of dieting get one all fired up? (7)
4 Perhaps a dated one dated, or potentially dated. (7)
6 A sculptor—or a chiseler? (Fit description, regardless.) (7)
7 One of Mohammed's descendants variously spelled. (5)
8 Obviously no nightmare. (A-musing situation, despite your finding Mary dead.) (8)
9 Describes a funny situation, too—though it might involve a rather noisy crying. (6)
16 A suitable diet for Heep? (6,3)
17 See 1 down
19 The Merchant of Venice. (7)
20 Bryan's opponent caused a patriotic women's association squabble. (6)
21 What the speeder does to the gas might be relative here. (7)
22 Concerning where the action is, at least there's a return. (7)
23 One of these used to be lighter—an experienced rider may not take them so much. (6)
25 See 2

SEE LAST WEEK'S SOLUTION AT LEFT

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